

Chapter 1

GENERAL PROVISIONS

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ARTICLE I **Adoption of Code**

A. Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

- (1) Any ordinance promising or guaranteeing the payment of money for the Town, or any evidence of the Town indebtedness;
- (2) Any appropriation ordinance providing for the levy of taxes or for any annual budget;
- (3) Any order annexing territory to the Town or excluding territory as a part of the Town;
- (4) Any ordinance granting any franchise, permit or other right;
- (5) Any ordinance creating a special services district;
- (6) Any ordinance approving, authorizing or otherwise relating to any contract, agreement, lease, deed, or other instrument;
- (7) Any ordinance adopting a preliminary or development plan;
- (8) Any temporary or special ordinance;

(9) Any Zoning amendment ordinance;

(10) The Land Development Ordinance.

B. All ordinances pursuant to this section are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this section.

ARTICLE II Terminology

§1-1. Construction of general terms.

The following shall apply to the construction of terms used in the Code of the Town of Frederica provided that these rules of construction shall not be applied to any section of this Code which contains any express provisions excluding such construction or where the subject matter or content of such section may be repugnant thereto.

- A. Whenever any word in any section of this ordinance importing the plural number is used, in describing or referring to any matter, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used.
- B. When any subject matter, party or person is referred in this ordinance by words importing the singular number only or the masculine gender several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included.
- C. The words "person, firm or corporation," shall be deemed to include any association or organization of any kind.
- D. Words in the present shall include the future.
- E. The words "this ordinance" shall be held and taken to mean the entire code, including each and every section thereof.
- F. The word "Town" whenever used in this ordinance shall be held and taken to mean the Town of Frederica.
- G. The words "written" and "in writing" may include printing.

§1-2. Titles of Town officers and employees.

Whenever reference is made in this ordinance to a municipal officer or employee by title only, this shall be construed as though followed by the words "of the Town of Frederica" and shall be

taken to mean the officer or employee of the Town having the title mentioned or performing the duties indicated.

§1-3. Malfeasance.

No provision of this ordinance designating duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this ordinance for a failure to perform such duty, unless the intention of the Council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

**ARTICLE III
Penalties**

§1-4. One recovery per offense.

In all cases where the same offense is made punishable or is created by different clauses or sections of this ordinance the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

§1-5. When no maximum.

Whenever in this Code a minimum fine or penalty is imposed, but a maximum penalty is not stated, the court may, in its discretion, fine the offender any sum exceeding the minimum fine or penalty so imposed, but not exceeding \$150.

§1-6. When no penalty stated.

Whenever in this Code the doing of any act or the omission to do any act constitutes a breach of any section or provision of this ordinance and there is no fine or penalty declared for any such breach, any person who shall be convicted of any such breach shall be fined an amount not less than \$50 nor more than \$150.

Chapter 9

COUNCIL MEETING

§ 9-1. Holding of regular meetings.

§ 9-2. Holding of special meetings.

§ 9-1. Holding of regular meetings.

- A. Regular Meetings of Council shall be held as prescribed by Charter and Code. A regular meeting of Council shall be held on the first Wednesday of each month and the third Wednesday of each month unless such Wednesday's shall be a legal holiday in which event the regular meeting shall be the following day.
- B. Each regular meeting of Council shall begin at 7:00 p.m.

§ 9-2. Holding of special meetings.

Special Meetings of Council shall be held upon the request of three Councilmen or the Mayor upon giving 24 hours' notice to the members of Council.

Chapter 16

ELECTIONS

ARTICLE I **Absentee Voting**

§ 16-1. Absentee voting permitted.

§ 16-2. Qualifications.

§ 16-3. Affidavit required.

§ 16-4. Request for ballot.

§ 16-5. Form of affidavit.

§ 16-6. Procedure.

§ 16-7. Challenges.

§ 16-8. Authentication of affidavit.

§ 16-9. Violations and penalties.

ARTICLE I **Absentee Voting**

§ 16-1. Absentee voting permitted.

Absentee voting shall be permitted in any regular municipal election.

§ 16-2. Qualifications.

Voting by absentee ballot shall be permitted for any qualified voter, duly registered, who shall be unable to appear at any Municipal Election either because of being in the public service of the United States or of the State of Delaware, or because the voter will be on vacation or unavoidably absent from the Town of Frederica on the date of the election, or because of the voter's sickness or physical disability.

§ 16-3. Affidavit required.

Any qualified voter, duly registered, desiring to receive an absentee ballot because the voter qualifies under any of the reasons set forth in Section 2 of this Ordinance shall file an affidavit with the Town of Frederica, subscribed and sworn to by him before an officer authorized by law to administer oaths. The affidavit shall be dated not more than 90 days prior to the day of any Municipal Election. It shall state the reason why the voter cannot appear at the regular polling place on the day of the elections, his birth date, his expected location, including his address and a telephone number (if available) to be used for the purposes of challenge on election day. The Town of Frederica shall mail or deliver the official ballot, envelopes and instructions to the voter as soon as possible after receiving the affidavit.

§ 16-4. Request for ballot.

Any elector who is qualified under Section 2 of this ordinance to vote by absentee ballot in any Municipal Election and who desires to do so shall, not later than 12:00 noon of the day prior to any such Municipal Election, request that the Town of Frederica provide an absentee ballot. If the day preceding any Town of Frederica Municipal Election is a Saturday, Sunday, or State or national holiday, the request for an absentee ballot must be made not later than 12:00 noon of the last non-holiday weekday prior to the Municipal Election.

§ 16-5. Form of affidavit.

The form of the affidavit to be utilized by anyone requesting an absentee ballot for voting in a Municipal Election shall be in a form substantially complying with the provisions of Section 5503 of Title 15 of the Delaware Code as amended.

§ 16-6. Procedure.

The absentee voter who qualified for his ballot under any of the reasons set forth in Section 2 of this Article. Ordinance shall make and subscribe to the affidavit before an officer authorized by law to administer oaths, and such voter shall thereupon in the presence of such officer, and of no other person, mark the ballot but in a manner that the officer cannot know how the ballot is marked, and the ballot shall then in the presence of the officer be deposited by the voter in the official envelope. The official envelope containing the ballot shall then be deposited in the voucher envelope and the voucher envelope shall be securely sealed by the voter. Thereupon the voucher envelope containing the marked ballot shall be enclosed in the mailing envelope received by the voter from the Town of Frederica and after the voter has enclosed the voucher envelope containing the marked ballot and the mailing envelope, he shall securely seal the mailing envelope and mail it, postage prepaid, to the Town of Frederica, or if more convenient, it may be delivered to the Department in person, to be received in either case, by the Town of Frederica before 12:00 noon of the last non-holiday weekday before the election and not thereafter.

§ 16-7. Challenges.

The vote of any absentee voter may be challenged for the same causes and in the same manner as provided for in Chapter 55 of Title 15 of the Delaware Code. In addition, the vote of any absentee voter may be challenged on the ground that the affidavit filed by the voter in compliance with the provisions of this ordinance is false.

§ 16-8. Authentication of affidavit.

Any affidavit required under this ordinance may be taken before any person with authority to administer oaths and affirmations in the place where such affidavit may be taken, and whenever taken outside the State of Delaware, the authority of such person shall be conclusively presumed. Any affidavit required under the provisions of this Ordinance, when made by an elector in the armed forces or merchant marine of the United States, or by persons serving with the American Red Cross, the Society of Friends, and the United Service organizations who are attached to and serving with the armed forces of the United States, may be taken before any commissioned or noncommissioned officer not below the rank of Sergeant or Petty officer in the armed services of the United States, or any member of the merchant marine of the United States properly designated for such purpose, or any other person authorized to administer and attest oaths or affirmations, and whenever taken outside the State of Delaware, the authority of such person shall be conclusively presumed.

§ 16-9. Violations and penalties.

Whoever willfully makes a false affidavit for voting or attempting to vote in any Municipal Election shall be guilty of perjury and shall be punished in accordance with the laws of the State of Delaware.

PART II

GENERAL

LEGISLATION

Chapter 70

ABATEMENT OF VIOLATIONS

§ 70-1. Duties of Code Official.

§ 70-4. Repeat Violations.

§ 70-2. Abatement.

§ 70-5. Fines.

§ 70-3. Recovery of Costs.

§ 70-1. Duties of Code Official.

In the event that any premises or property within the Town shall be in violation of the Town of Frederica Code of Ordinances or any national or local codes adopted by the Town, including, but not limited to, the International Property Maintenance Code, the Code Official shall issue a summons showing the violation(s) of this Ordinance, said summons to be served personally or by certified mail upon the owner, occupant, or tenant of the premises or property, or any agent caring for or in charge of the premises or property. The summons shall:

- (a) cite the provision(s) of the Town of Frederica Code of Ordinances, national or local codes as adopted by the Town violated by the property;
- (b) shall be accompanied by a copy of the relevant provision(s) of the Town of Frederica Code of Ordinances or any national or local codes as adopted by the Town;
- (c) shall state what corrective action(s) must be taken; and
- (d) shall state the consequences for failure to take such corrective action.

§ 70-2. Abatement.

If the violation(s) is not corrected or abated within three (3) days from the date of personal service of the summons or within seven (7) days from the date of the mailing of the summons by certified mail, then the Code Official cause the said violation(s) to be corrected or abated by Town staff or a third-party contractor. The Town staff or contractor will enter or access the said property where the violation(s) occur to correct or abate the violation(s). If at any time during the correction or abatement of the violation(s) there is an obstruction not allowing access onto the said premises where the violation(s) has occurred, then the obstruction shall be removed at the property owner's expense and if the obstruction is a motor vehicle then it shall be towed and stored at the property owner's expense.

§ 70-3. Recovery of Costs.

All costs associated with the correction or abatement of the said violation(s) including, but not limited to, all administrative costs, contractor's costs, court and attorney's' fees, shall be assessed against the property.

§ 70-4. Repeat Violations.

When the owner, occupant, or tenant of any premises or property, or any agent caring for or in charge of the premises or property has received summonses, failed to take corrective action, and the Town has corrected the violation(s) in accordance with this section, then no further notification shall be necessary for the Town to take further corrective action on any subsequent violations within the following twelve (12) month period starting from the date of the first corrective action by the Town.

§ 70-5. Fines.

Nothing in this Chapter shall be construed to restrict the ability of the Code Official from issuing citations and prosecuting responsible parties for the violation of any provision of the Town of Frederica Code of Ordinances or any national or local codes adopted by the Town.

Chapter 75

ALCOHOLIC BEVERAGES

ARTICLE I Public Consumption

§ 75-1. Prohibition.

§ 75-2. Prohibition while trespassing.

§ 75-3. Applicability.

§ 75-4. Arrests.

§ 75-5. Violations and penalties.

ARTICLE II Public Possession and Consumption

§ 75-6. Definitions

§ 75-7. Definition.

§ 75-8. Prohibition.

§ 75-9. Violations and penalties.

§ 75-10. Exceptions

ARTICLE I Public Consumption

§ 75-1. Prohibition.

It shall be unlawful for any person to drink, or offer to another a drink of any alcoholic liquor on any street, sidewalk, or other exterior public place within the limits of the Town of Frederica.

§ 75-2. Prohibition while trespassing.

It shall be unlawful for any person, while trespassing upon the exterior portion, of any private property within the limits of the Town of Frederica, to drink, or offer to another a drink of alcoholic liquor.

§ 75-3. Applicability.

The aforesaid prohibitions shall apply both to pedestrians and to persons riding in vehicles, whether moving or standing still.

§ 75-4. Arrests.

Arrests for violations of this ordinance may be made upon lawful warrant as in other cases; provided that any peace officer may arrest without warrant upon actual view of the offense when committed, or upon fresh pursuit following such view.

§ 75-5. Violations and penalties.

Persons convicted of a violation of this ordinance shall be punished by a fine of not less than \$25 nor more than \$100.

§ 75-6. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ALCOHOLIC LIQUOR -- As used herein shall be defined as in the Liquor Control Act of the State of Delaware.

ARTICLE II Public Possession and Consumption

§ 75-7. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ALCOHOLIC BEVERAGE(S) -- Any intoxicating liquor, including spirits, wine or beer.

PUBLIC PLACE(S) -- Any place which is open and available to public use, occupation, passage, or traffic, whether owned by a public or private entity, and including all streets, lanes, ways, alleys, sidewalks, parking lots, parks, plazas, tennis courts, basketball courts, playgrounds and schoolyards. In addition to its ordinary meaning, "public place(s) shall also include the Town's benches, plaques, memorials, steps, and railings.

§ 75-8. Prohibition.

No person shall drink any intoxicating liquor, including spirits, wine or beer, or possess any open container containing intoxicating liquor, including spirits, wine or beer, in any public place within the municipal Limits of Frederica, Delaware.

§ 75-9. Violations and penalties.

- A. First offense: warning. Any person observed by any police officer to be violating this ordinance shall be issued a written warning. If such person is a minor, a copy of such written warning shall be delivered or mailed to such minor's parents or lawful guardians at their last known address.
- B. Second and subsequent violations. Any person having previously been issued a written warning under Subsection A who is observed violating this ordinance a second subsequent time shall, upon conviction, forfeit and pay a fine of not less than \$50 nor more than \$100, plus court costs and Victim's Compensation Fund Assessment if applicable. If such person is a minor, a copy of the charges shall be delivered or mailed to such minor's parents or lawful guardians at their last known address.

§ 75-10. Exceptions.

- A. Council may designate places where alcoholic beverage possession or consumption is permitted.
- B. Anything in this ordinance to the contrary notwithstanding, the Council may, by resolution, designate specific public places and/or specific days and times when possession or consumption (excluding minors) will be permitted, provided that:
 - (1) The Council shall, at the written request of the legal owner/possessor of any public place(s), designate such place(s) as a place(s) where alcoholic beverages shall be permitted for such days and times as so requested in writing by the owner/possessor thereof, unless the Council specifically determines that, under the circumstances, the public place(s) so requested presents such a potential risk to other members of the public as to warrant denial of such request.
 - (2) The Council shall not, without the written consent of the legal owner/possessor of any public place(s), designate such place(s) as a place(s) where alcoholic beverages shall be permitted.
- C. This ordinance does not apply to the use of alcoholic beverages of organized religious practices.

Chapter 82

ANIMALS

ARTICLE 1 Animal Control

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| § 82-1. Definitions. | § 82-8. Seizure and impoundment of dangerous or vicious animals. |
| § 82-2. Motorist striking an animal. | § 82-9. Abandoning animals in a public place or on property of another. |
| § 82-3. Running at-large. | § 82-10. Cruelty to animals. |
| § 82-4. Licenses required for dogs. | § 82-11. Public nuisance animals. |
| § 82-5. Noisy animals. | § 82-12. Impoundment of animals at-large and nuisance animals. |
| § 82-6. Animal excrement. | § 82-13. Animals prohibited in the Town. |
| § 82-7. Vicious animals. | § 82-14. Fines. |
| | § 82-15. Police dogs and service dogs. |

ARTICLE I

Animal Control

§ 82-1. Definitions

As used in this ordinance, unless the context otherwise clearly indicates, the following terms shall mean as indicated below:

ANIMAL -- Includes every non-human species.

ANIMAL ABANDONMENT -- Includes completely forsaking or deserting an animal originally under one's custody without making reasonable arrangements for custody of that animal to be assumed by another person.

ANIMAL CONTROL OFFICER -- A person employed by the Town of Frederica as an

enforcement officer, including sworn police officers.

ANIMAL SHELTER OR VETERINARY FACILITY -- Any premises so designated by the Town of Frederica for the purpose of impounding and caring for strays, animals found running at large, or animals in violation of the ordinance.

AT-LARGE -- An animal off the premises of the owner and not under the control of a human being either by leash, cord, chain, or otherwise.

CRUEL -- Includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

CUSTODY -- Includes the responsibility for the welfare of an animal subject to one's care and control whether he owns it or not.

DOMESTICATED ANIMAL -- Any animal that is accustomed to living in or about the habitation of man, including, but not limited to cats, dogs, cows, horses, swine, and fowl.

FOOD AND DRINK -- Includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

OWNER -- Any person, partnership, association, or corporation owning, keeping, or harboring an animal. Any animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

PUBLIC NUISANCE ANIMAL -- Any domestic animal or group of domestic animals which:

- A. Is repeatedly found at large; or
- B. Damages the property of anyone other than its owner; or
- C. Molests passersby or chases passing vehicles or bicycles; or
- D. Barks, whines, or howls in an excessive, continuous, or untimely fashion; or
- E. Creates an odor which is noxious or offensive, and/or which constitutes a substantial annoyance, inconvenience, or injury to the public; or
- F. Interferes with the health, comfort, safety, or enjoyment of property; offends the sense of decency of the public as a result of unsanitary conditions in the area where such animals are kept; and/or which creates a danger to the public health as determined by the Division of Public Health.

RESTRAINT -- An animal is under "restraint" within the meaning of this ordinance if it is controlled by a leash, cord, chain, or under the control of an owner or other responsible persons

and obedient to that person's commands, or within a vehicle being driven or parked on the street, or within the property limits of its owner or keeper.

SHELTER -- Includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

STRAY -- A domesticated animal for which ownership is not established or for which owner disclaims future responsibility.

VICIOUS ANIMAL -- Any animal which constitutes a physical threat to a human being or other animal by virtue of attacks of such number and/or severity as to be likely to cause property damage or physical injury. Evidence of a prior instance of an animal biting a human being, without provocation, shall be prima facie evidence that the animal is vicious.

WILD ANIMAL -- Any live monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, boa, python, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state.

§ 82-2. Motorist striking an animal.

The driver of any motor vehicle which strikes an animal shall immediately notify the Delaware State Police.

§ 82-3. Running at-large.

- A. It shall be unlawful for any person to permit any animal to run at-large.
- B. It shall be the duty of every police officer and animal control officer to apprehend any dog found running at-large contrary to the provisions of this section and to impound it. Such person shall make a record of the breed, color, and sex of the dog and the number of its license tag, if any. A compilation of the records of all dogs caught and impounded shall be maintained at the police headquarters station. Should any police officer or animal control officer be unable, after using reasonable and diligent efforts, to apprehend a vicious animal, he may destroy it.
- C. Any citizen of the Town may take up any animal found running at-large and deliver it to an animal control officer or police officer, or other authorized person, to be impounded.
- D. It shall be the duty of the animal control officer or police officer or other person taking or impounding any animal to notify the owner, if known, within a reasonable time, either personally or by a written notice left at his usual place of abode or, if unknown, by five or more written or printed notices posted in public places within the Town.
- E. It shall be unlawful for any person who is the owner or custodian of any animal to permit

or suffer the animal to be upon any Town-owned or privately-owned property which is posted with "no animals" signage.

- F. It shall be the duty of the owner or custodian of any female animal to confine such animal in an enclosure for which it cannot escape during such times as the animal is "in heat."

§ 82-4. Licenses required for dogs.

- A. The owner or lawful possessor of any dog shall obtain a license for his dog pursuant to 7 Del. C. §1702 and any owner or possessor who shall fail to comply with the provision of the laws of Delaware shall be punishable as provided in Section 13 of this Article.
- B. The provisions of this section may be enforced by any police officer or by any person designated to act as an animal control officer.

§ 82-5. Noisy animals.

- A. No person shall keep or maintain any animal which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the Town. Such action is declared to be a public nuisance and detrimental to the public health and welfare.
- B. It shall be the duty of every police officer or animal control officer to act upon complaints made by persons concerning animals violating subsection (a). Each police officer and animal control officer investigating same shall give 48 hours notice to the persons owning or having control of any animal causing frequent or long continued noise such as to disturb the comfort or repose of persons in the Town. The person owning or controlling said animal shall have a period of 48 hours from the date of receipt of said notice to abate the nuisance by disposing of the animal or by controlling the noise emitted by the same. In the event that the person owning or controlling said animal shall fail to do so within said period of time and if the animal continues to cause noise as it has in the past, the person owning or controlling said animal shall be deemed to be maintaining a public nuisance and shall be subject to a fine in the amount prescribed by this ordinance until such nuisance is abated.

§ 82-6. Animal excrement

- A. No person having possession, custody, or control of any animal shall knowingly or negligently permit any animal to deposit excrement upon any gutter, street, driveway, alley, curb, or sidewalk in the Town, or upon the floors or stairways of any building or place frequented by the public or used in common by the tenants, or upon the outside wall, walkways, driveways, alleys, curbs, or stairways of any building abutting on a public street or park, or upon any private property other than the property of the owner of

such animal.

- B. Any person having possession, custody, or control of any animal which deposits excrement in any area other than the private property of the owner of such animal, as prohibited in section 6(a), shall be required to immediately remove the said excrement from surface and either:
 - (1) Carry same away for disposal in a toilet; or
 - (2) Place same in a non-leaking container for deposit in a trash or litter receptacle.
- C. Exceptions. The provisions of this section shall not apply to a guide dog accompanying any blind persons, or to a dog used to assist any other physically handicapped person, or the animals used in any police activities of the Town or to horses used by persons for the purposes of transportation on public roadways. Horses on private property other than the owner's must have their droppings removed by the owner.
- D. Enforcement. For the purpose of enforcing the provisions of this section, notice of violation shall be issued by police officers or any other person authorized to enforce ordinances.
- E. If the excrement is properly disposed of by the owner or person in charge of the animal, it will not be considered a violation of section 6(a).
- F. Every owner, or person responsible for, one or more animals shall take all reasonable measures to prevent accumulation of animal excreta in the area in which such animals are customarily kept. No such owner shall allow animal excreta to accumulate so as to create obnoxious or offensive odors.
- G. Violations. Any person convicted of violating the provisions of this section shall be sentenced to pay a fine of \$75 for each violation. For each subsequent offense, the minimum fine shall be \$150. Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.

§82-7. Vicious animals.

- A. The following shall constitute a vicious animal:
 - (1) Any animal which when unprovoked in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or
 - (2) Any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

- (3) Any animal which bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal without provocation on public or private property; or
 - (4) Any animal owned or harbored primarily in part for the purpose of fighting or any animal trained for fighting; or
 - (5) Any animal not licensed according to state, county, or municipal law.
- B. Notwithstanding the definitions of a vicious animal, no animal may be declared vicious if any injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing, or assaulting the animal or was committing or attempting to commit a crime.
- C. No animal may be declared vicious if any injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was teasing, tormenting, abusing, or assaulting the animal. No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.
- D. Any vicious domestic animal, any wild animal, or any sick or injured animal, other than a dog carrying a current license tag, may be destroyed immediately after impounding. Any rabid animal may be destroyed immediately. Any other animal shall be held for three days, except that dogs carrying a current license tag shall be held for five days.
- E. Destruction for public safety or humane reasons: When in the judgment of the animal control agency, it is determined that any animal should be destroyed for humane reasons, or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established herein.

§ 82-8. Seizure and impoundment of dangerous or vicious animals.

- A. When a person has been bitten by a vicious animal, the person or parent, guardian or person standing in loco parentis of the person, and the person owning the animal or in control or possession of the animal shall notify the Town of Frederica immediately and give the name and address of the person bitten and the owner of the animal along with a description of the animal. All animals that bite a person shall be immediately confined for 10 days in a Town of Frederica approved animal shelter or veterinary facility at the expense of the owner.
- B. Confinement of an animal which has bitten a person may not be required if the owner or person who controls or possesses such dog can present a veterinarian's certificate of current rabies immunization.

- C. Any dangerous or vicious animal may be impounded by the animal control officer or police officer to protect the public safety. Said impoundment will be at a Town approved animal shelter or veterinary facility at the owner's expense. No dangerous or vicious animal will be returned to the owner unless said animal is confined by the owner within a building or secured enclosure and shall be securely muzzled or caged whenever off the premises of its owner. Every person harboring a vicious animal or a wild animal is charged with an affirmative duty to confine said animal in such a way that the public does not have access to such animal.

§ 82-9. Abandoning animals in a public place or on property of another.

No person shall abandon any domesticated animal or any wild animal in any public place, including right-of-way of any public highway, road, or street, or on the property of another.

§ 82-10. Cruelty to animals.

No person shall:

- A. Override, torture, ill-treat, abandon, willfully inflict inhumane injury or pain not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beat, maim, mutilate, or kill any animal, whether belonging to himself or another.
- B. Deprive any animal of necessary sustenance, food, drink, or shelter.
- C. Willfully set on foot, instigate, engage, or in any way further any act of cruelty to any animal.
- D. Carry or cause to be carried in or upon any vehicle or vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering.
- E. Cause any of the above or, being the owner of an animal, permit such acts to be done by another.

§ 82-11. Public nuisance animals.

- A. A reasonable attempt shall be made to notify the owner of any animal suspected of constituting a public nuisance.
- B. It shall be unlawful for any person within the Town of Frederica to harbor any animal that is found to be a health or safety hazard. Within 24 hours of the delivery of written order to the owner or custodian, such animal shall be removed from the Town of Frederica. Failure to comply with the order to remove shall subject the owner or custodian to a fine

of \$100 per day for each day of non-compliance with the order to remove.

- C. Every public nuisance animal shall, upon demand, be delivered to the animal control officer or police officer. It shall be unlawful for the owner of a public nuisance animal to refuse to surrender such animal to the animal control officer or police officer. Such refusal is punishable by a fine of \$100. A public nuisance animal which has been impounded by the animal control officer or police officer may be redeemed by the owner only upon the conditions established in this ordinance.
- D. Any animal found unredeemable shall be disposed of in a humane manner. Impoundment of said animal is at the owner's expense.

§82-12. Impoundment of animals at-large and nuisance animals.

Animals at-large and public nuisance animals may be taken by an animal control officer or police officer and impounded in an animal shelter or veterinary facility at the owner's expense. At the discretion of the animal control officer or police officer, such animal may be left in the custody of its owner and said owner issued a summons for violation of this ordinance. The owner of any impounded animal shall be entitled to regain possession of the animal within five days after the impoundment upon payment to the Town of such fees as Council may set from time to time. If the owner does not regain possession of the animal, the Town is authorized to dispose of the animal.

§82-13. Animals prohibited in Town.

No person shall keep, grow, raise, or maintain swine, cattle, sheep, goats, horses, chickens, turkeys, guineas, geese, ducks, pigeons, any wild animal, or any other animal not normally housed in a human residence within the corporate limits of the Town.

§ 82-14. Fines.

- A. Any person convicted of a violation of any section of this ordinance which does not contain a specification of the fine shall pay a mandatory and non-suspendable fine of at least the minimum fine for each offense as follows:
 - (1) For the first offense: \$50;
 - (2) For the second offense: \$100;
 - (3) For the third offense: \$150; and
 - (4) For the fourth offense, the animal must be removed from the Town of Frederica within 24 hours. If the animal is not so removed, the owner or custodian shall be

fined \$200 per day that the animal remains within the Town of Frederica.

- B. Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.

§ 82-15. Police dogs and service dogs.

The provisions of this ordinance shall not apply to the ownership or use of service dogs by persons with disabilities. As used in this section, service dogs shall mean those animals that are individually trained to perform tasks for people with disabilities, including, but not limited to, animal guiding people who are blind, animals alerting people who are deaf, animals pulling wheelchairs, animals alerting and protecting a person who is having a seizure, or animals performing other special tasks for persons with disabilities.

Chapter 86

ANNEXATIONS

ARTICLE I

Comparable Zoning for Annexed Properties

ARTICLE II **Annexation Fees**

§ 86-1. Zoning Upon Annexation.

ARTICLE I

Comparable Zoning for Annexed Properties

§ 86-1. Zoning Upon Annexation.

A property designated other than single-family residential by Kent County zoning may be annexed into the Town of Frederica with a comparable Town zoning designation, to be specified on the Annexation Ordinance after the Annexation Election. These specifics shall be the subject of a Public Hearing before the annexation election, and approved by Council.

ARTICLE II

Annexation Fees

Before Council adopts a resolution annexing property into the Town, the owners of said property shall pay to the Town of Frederica the amount stated in Chapter 180 of this Code.

Chapter 93

BICYCLES

§ 93-1. Business districts.

§ 93-2. Residential districts.

§ 93-3. Penalty

§ 93-1. Business districts.

It shall be unlawful for any person to ride, push, or park a bicycle on any of the sidewalks in business districts of the Town at any time.

§ 93-2. Residential districts.

Bicycles may be operated on sidewalks in residential districts of the Town, but in single file only. Under all circumstances the rider shall yield the right-of-way to pedestrians using the sidewalk, and due and proper care shall at all times be exercised by the rider for the pedestrians. When approaching a pedestrian on the sidewalk, the speed of a bicycle shall be reduced to a speed which is no greater than necessary to continue the operation of the bicycle without the rider dismounting, and shall not be increased until the pedestrian has been passed.

§ 93-3. Penalty.

Any person violating the provisions of this Article shall, upon conviction, forfeit and pay a fine not exceeding \$25 for any one offense.

Chapter 102

BUILDING STANDARDS

ARTICLE I

Adoption of County Standards

§ 102-1. Adoption of standards.

§ 102-13. Duties of building inspector.

§ 102-14. Hearing before council.

ARTICLE II

Handicapped Parking

§102-2. Signage

**§ 102-15. Violations, penalty for
disregarding notices or orders.**

§ 102-16. Duties of the city solicitor.

ARTICLE III

Dangerous Buildings

§ 102-10. Definitions.

§ 102-17. Emergency cases.

**§ 102-18. Procedure when owner absent
from the city.**

**§ 102-11. Standards for repair, vacation
or demolition.**

§ 102-19. Administrative liability.

§ 102-12. Nuisance declared.

**§ 102-20. Duties of fire marshal and city
employees.**

ARTICLE I

Adoption of County Standards

§ 102-1. Adoption of standards.

The Town of Frederica hereby adopts the current edition of the building codes as adopted by the Kent County Levy Court as the building standards for construction within the corporate limits of the Town of Frederica.

ARTICLE II

Handicapped Parking

§ 102-2. Signage.

- A. Parking spaces or zones for use by persons with disabilities shall be provided in accordance with the International Building Code as amended and adopted by Kent County Levy Court.
- B. Accessible parking spaces shall be signed in accordance with the following:
 - (1) Such signs shall be vertical and placed at a height of at least five feet from grade but no more than seven feet when measured from the surface directly below the sign to the top of the sign for each parking space.
 - (2) Such signs shall comply with federal specifications for identification of parking spaces reserved for persons with disabilities which limit or impair the ability to walk. A sign at least 12 inches wide (horizontal) and 18 inches tall (vertical) that includes the universal handicapped (wheelchair) symbol of access shall be required for each parking space reserved for use by persons with disabilities.
 - (3) These requirements shall not be construed to preclude additional markings, such as the international wheelchair symbol or a striped extension area painted on the space, or a tow-away warning sign.

ARTICLE III

Dangerous Buildings

§ 102-10. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous buildings means all buildings or structures which have any or all of the following defects or uses:

- (1) *Leaning interior walls.* Those of which the interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) *Damaged walls, etc.* Those which, exclusive of the foundation, show 33 percent or more of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the non supporting enclosing or outside walls or covering.
- (3) *Loads on roofs.* Those which have improperly distributed loads upon the floors or roofs or which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

- (4) *Fire damage, etc.* Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.
- (5) *Unfit for habitation.* Those which have become or are so dilapidated, decayed, unsafe, insanitary or so utterly fail to provide the amenities to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- (6) *Light, air, sanitation.* Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.
- (7) *Fire escapes, etc.* Those having inadequate facilities in case of fire or panic, or those having insufficient stairways, elevators, fire escapes, or other means of communication.
- (8) *Loose parts.* Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (9) *General welfare.* Those which, because of their condition or use, are unsafe, unsanitary, or dangerous to the public health, morals, safety or general welfare of the people of this city.
- (10) *Code violations.* Those existing in violation of any provisions of the building code of this city, or any provision of the fire prevention code, or other ordinances of this city.
- (11) *Drug sales, use, etc.* Those which are being used for the unlawful selling, serving, storing, giving away or manufacturing (which includes the production, preparation, compounding, conversion, processing, packaging or repackaging) of any drug, which includes all narcotic or psychoactive drugs, cannabis, cocaine and all controlled substances as defined in the Uniform Controlled Substances Act (16 Del. C. § 4701 et seq.).
- (12) *Unoccupied buildings.* Those which are left unoccupied and unattended for periods of three months or more so that decay is being accelerated by natural or manmade causes or which may be attracting trespassers and vagrants, increasing the probability of fire and danger to human life.
- (13) *Incomplete buildings.* Those under construction, if the authorized work is substantially suspended or abandoned for a period of three months or more.

§ 102-11. Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the building inspector in ordering repair, vacation, or demolition of dangerous buildings:

- (1) *Repair.* If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.
- (2) *Vacation.* If the dangerous building is in such a condition or is being used as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated and closed. Buildings ordered closed shall not be reopened until a certificate of occupancy is issued.
- (3) *Demolition.* In any case where a dangerous building is 50 percent damaged, decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished. In all cases where a dangerous building is a fire hazard as determined by the fire marshal, or is existing or erected in violation of the terms of this article or any ordinance of the city or statute of the state, it may be demolished.

§ 102-12. Nuisance declared.

All dangerous buildings within the terms of section §102-11 are hereby declared to be public nuisances, and shall be repaired, vacated and closed or demolished as hereinbefore and hereinafter provided.

§ 102-13. Duties of building inspector.

The building inspector shall:

- (1) *Inspect public buildings.* Inspect or cause to be inspected semi annually all public buildings, schools, halls, churches, theaters, hotels, tenements, or commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a dangerous building within the terms of section §102-11.
- (2) *Complaints.* Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article.
- (3) *Reported violations.* Inspect any building, wall or structure reported (as hereinafter provided for) by the fire or police departments of this city as probably existing in violation of this article.
- (4) *Dangerous buildings.* Inspect such other buildings as shall from time to time come to his attention as possibly dangerous buildings within the terms of section §102-11.

- (5) *Notice to owner.* Notify, in writing, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building, as shown by the land records of the recorder of deeds of the county, of any building found by him to be a dangerous building within the standards set forth in section §102-11, that:
- a. *Duties of owner.* The owner must vacate and close, or repair, or demolish said building in accordance with the terms of the notice and this article;
 - b. *Duties of occupant.* The occupant or lessee must vacate and close said building or may have it repaired in accordance with the notice and remain in possession;
 - c. *Persons with interest.* The mortgagee, agent or other persons having an interest in said building, as shown by the land records of the recorder of deeds of the county, may, at their own risk, repair, vacate and close, or demolish said building or have such work or act done; provided that any person notified under this subsection to repair, vacate and close, or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein;
 - d. *Appeal.* The person or entity receiving notice by the building inspector shall have the right to appeal his decision directly to the council and have a hearing conducted in accordance with the provisions of section §102-14 before council, provided that the notice of appeal is filed with the city clerk no later than five days after receiving notice from the building inspector.
- (6) *Order to remedy conditions.* Set forth in the notice provided for in subsection (5) hereof a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding 30 days, as is reasonable.
- (7) *Noncompliance with notice.* Report to the council any noncompliance with the notice provided for in subsections (5) and (6) hereof.
- (8) *Testify at hearings.* Appear at all hearings conducted by the council and testify as to the condition of dangerous buildings.
- (9) *Notice on buildings.* Place a notice on all dangerous buildings, reading as follows:
"This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building unit until it is repaired, vacated and closed, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building, as shown by the land records of the recorder of deeds of Kent County. It is unlawful to remove this notice until such notice is complied with."
- (10) *Orders of council.* Carry out all orders of the council to cause the repair, vacation

and closure, or demolition of dangerous buildings pursuant to section §102-14. In causing the vacation of the dangerous building, the building inspector may order the city utilities to be disconnected. In causing the closure of dangerous buildings, the building inspector may direct the removal from the building of all furniture, equipment and other personal property left by vacated occupants.

§ 102-14. Hearing before council.

The council of the city shall:

- (1) *Notice of hearing.* Upon receipt of a report of the building inspector as provided for in section §102-13 (7), give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building, as shown by the records of the recorder of deeds of the county, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated and closed, or demolished in accordance with the statement of particulars set forth in the building inspector's notice provided for herein in section §102-13(6).
- (2) *Conduct of hearing.* Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building, as shown by the land records of the recorder of deeds of the county, shall offer relative to the dangerous building. Hearings relative to reported dangerous buildings as defined in section §102-10 (11) shall include the testimony of a police officer, who may submit arrest records, complaint records, and affidavits relative to the property as evidence for the hearing.
- (3) *Findings.* Make written findings of fact from the testimony offered pursuant to subsection (2) of this section as to whether or not the building in question is a dangerous building within the terms of section §102-10.
- (4) *Order.* Issue an order based upon findings of fact made pursuant to subsection (3) of this section, commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building, as shown on the land records of the recorder of deeds of the county, to repair, vacate and close, or demolish any building found to be a dangerous building within the terms of this article, setting the time within which said building shall be repaired, vacated and closed, or demolished, and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said dangerous building; or any person not the owner of said dangerous building but having an interest in said building as shown by the land records of the recorder of deeds of the county may demolish said dangerous building at his own risk to prevent the acquiring of a lien against the land upon which said dangerous building stands by the city as provided in subsection (5) hereof.
- (5) *Failure to comply.* If the owner, occupant, mortgagee, or lessee fails to comply with

the order provided for in subsection (4) hereof within ten days, cause such building or structure to be repaired , vacated and closed, or demolished, as the facts may warrant, under the standards hereinbefore provided for in section §102-13, and shall, with the assistance of the city solicitor, cause the costs of such repair, vacation, or demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit at law against the owner, provided that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of this city, the council shall notify the city solicitor to take legal action to force the owner to make all necessary repairs or demolish the building.

- (6) *Report to solicitor.* Report to the city solicitor the names of all persons not complying with the order provided for in subsection (4) hereof.

§ 102-15. Violations; penalty for disregarding notices or orders.

(a) *Violations by owner.* The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate and close, or demolish said building given by the council shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided for in Appendix F-Fees and Fines.

(b) *Violations by occupant or lessee.* The occupant or lessee in possession who fails to comply with any notice to vacate and close or who fails to repair said building in accordance with any notice given by the council as provided for in this article shall be guilty of a misdemeanor and, upon conviction thereof:: shall be fined as provided for in Appendix F Fees and Fines.

(c) *Removal of notice.* Any person removing the notice provided for in section §102-13(9) shall be guilty of a misdemeanor and, upon conviction, shall be fined \$100.

(d) *(Late payment)* Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.

§ 102-16. Duties of the city solicitor.

The city solicitor shall:

- (1) *Prosecutions.* Prosecute all persons failing to comply with the terms of the order provided for in section §102-14 (4).
- (2) *Hearings.* Appear at all hearings before the council in regard to dangerous buildings.
- (3) *Collections.* Bring suit to collect all municipal liens, assessments, or costs incurred in repairing or causing to be vacated and closed or demolished dangerous buildings.

(4) *Other legal action.* Take such other legal action as is necessary to carry out the terms and provisions of this article.

§ 102-17. Emergency cases.

In cases where it reasonably appears that there is an immediate danger to the life or safety of any person, unless a dangerous building is immediately repaired, vacated and closed, or demolished, the building inspector shall report such facts to the council, which may cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in section §102-14 (5).

§ 102-18. Procedure when owner absent from the city.

In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the city, all notices or orders provided for herein shall be sent by registered or certified mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building, as shown by the land records of the recorder of deeds of the county, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

§ 102-19. Administrative liability.

No officer, agent, or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit against any officer, agent, or employee of the city as a result of any act required or permitted in the discharge of his duties under this article shall be defended by the city solicitor until the final determination on of the proceedings therein.

§ 102-20. Duties of fire marshal and city employees.

All members of the fire department, all officers of the police department, and all other employees of the city shall report, in writing, to the building inspector all buildings or structures within the city which shall come to their knowledge or attention as being dangerous buildings within the terms of this article.

Chapter 108

BUILDINGS, VACANT

§ 108-1. Vacant buildings prohibited.

§ 108-4. Abeyance of fine.

§ 108-2. Violations and penalties.

§ 108-5. Abatement of assessment.

§ 108-3. Assessments added to tax bill.

§ 108-1. Vacant buildings prohibited.

It shall be unlawful for an owner to suffer or permit a building or structure to remain unoccupied within the Town limits of the Town of Frederica. For the purpose of this ordinance, a building or structure shall be considered unoccupied when it is no longer being used for the accustomed and ordinary purpose of the building or structure.

§ 108-2. Violations and penalties.

- A. If a residential building or structure remains unoccupied for a period of six months, the owner shall be assessed the sum of \$200. For each month or portion thereof thereafter that the residential building or structure remains unoccupied, the owner shall be assessed the sum of \$100.
- B. If a commercial building or structure remains unoccupied for a period of six months, the owner shall be assessed the sum of \$400. For each month or portion thereof thereafter that the commercial building or structure remains unoccupied, the owner shall be assessed the sum of \$200.

§ 108-3. Assessments added to tax bill.

Any amounts assessed shall be added to the tax bill of the owner as provided by the Charter of the Town of Frederica.

§ 108-4. Abeyance of fine.

The assessments levied by paragraph 2 or paragraph 3 shall be held in abeyance for a maximum period of four months if:

- A. All Town provided utility accounts are active and not delinquent; and
- B. The property is in compliance with the Town Property Maintenance and Building Codes and
- C. In addition,
 - (1) The owner holds a building permit for the repair or renovation of the structure and progress is being made on such repair or renovation, or
 - (2) The owner is a party to a valid and bona fide listing agreement with a third-party realtor, or
 - (3) The owner is a party to a valid and bona fide agreement of sale.

§ 108-5. Abatement of assessment.

Council may grant an abatement of the vacant building assessment upon application by the owner and for good cause shown after a hearing before Council.

Chapter 114

BURNING, OPEN

§ 114-1. Open burning.

§ 114-3. Definitions.

§ 114-2. Salvage, demolition or disposal.

§ 114-4. Penalties.

§ 114-1. Open burning.

Open burning is prohibited within the Town limits.

§ 114-2. Salvage, demolition or disposal.

Salvage operations, demolition operations, or disposal of waste materials by open burning is prohibited within Town limits.

§ 114-3. Definitions.

For the purpose of this ordinance, open burning means the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber.

§ 114-4. Penalties.

- A. Any person violating this ordinance shall be punished by a fine of not more than \$100 for each offense.
- B. Each day that a violation occurs shall be a separate offense.

Chapter 120

BUSINESS LICENSES

§ 120-1. Enforcement.

§ 120-2. Powers and duties of Town Council.

§ 120-3. Compliance.

§ 120-4. License required; fee.

§ 120-5. Receipt for payment of license fees.

§ 120-6 License application.

§ 120-7 Issuance, expiration, and form.

§ 120-8 Denial of license.

§ 120-9. Penalty for late payment of license fee.

§ 120-10. Collection of fees.

§ 120-11. Separate license for branch establishments and rental realty.

§ 120-12. No license required for deliveries.

§ 120-13. Exemptions from license.

§ 120-14. Special sales.

§ 120-15. Supplemental licenses.

§ 120-16. Duplicate licenses.

§ 120-17. Liability of corporate officers, partnerships, etc.

§ 120-18. Procedure for renewal of licenses.

§ 120-19. Change of business location.

§ 120-20. Transfer of license.

§ 120-21. Display.

§ 120-22. General standards of conduct by licensee.

§ 120-23. Inspections.

§ 120-24. Provisional orders

§ 120-25. Final order.

§ 120-26. Summary action.

§ 120-27. Appeals.

§ 120-1. Enforcement.

The Town Council shall, unless specifically provided otherwise, supervise the enforcement of this ordinance and have authority to grant, deny, and revoke license and permits.

§ 120-2. Powers and duties of Town Council.

The Town Council shall:

- A. Collect all license fees; issue licenses and maintain all license records in the name of the Town to all qualified persons.
- B. Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this ordinance.
- C. Adopt all forms and prescribe the information to be given therein as to character and other relevant matter for all necessary papers.
- D. Require applicants to submit all affidavits and oaths necessary to the administration of this ordinance.
- E. Submit all applications, in a proper case, to interested Town officials for their endorsements thereon as to compliance by the applicant with all Town ordinances which they have the duty of enforcing.
- F. Investigate and determine the eligibility of any applicant for a license pursuant to this ordinance, if required.
- G. Notify any applicant of the acceptance or rejection of his application and, upon the refusal of any license or permit and at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.
- H. Keep all information furnished or secured under the authority of this ordinance in strict confidence. The information shall not be subject to public inspection and shall be kept so that its contents shall not become known except to the persons charged with the administration of this ordinance.

§ 120-3. Compliance.

It shall be unlawful for any person, either directly or indirectly, to conduct any business or to use in connection therewith any vehicle, premises, machine, or device, in whole or in part, for which a license or permit is required by this Code, without a license or permit therefore being first procured and kept in effect at all times required.

§ 120-4. License required; fee.

- A. Each nonprofessional service business shall pay an annual license fee for each store or place of business from which the licensee conducts the business operated within the Town.
- B. Persons engaged in professional services such as accountants, certified or public, landscape architects, architects, optometrist, lawyers, dentists, physicians and surgeons, psychologists, physical therapist, podiatrists, professional engineers, and veterinarians shall pay an annual license fee for engaging in such professional services within the Town.
- C. No license shall be required of any individual practicing a profession or trade who is in the employ of any corporation licensed under any other provisions of this ordinance and who does not practice his profession except in his capacity as an employee of such corporation; and provided further that no attorney in the employ of any such corporation shall be required to obtain a license under this section so as to fulfill assignments made to him by any state court.
- D. All trades, businesses, or occupations shall pay an annual license fee of \$50 for each store or place of business from which the licensee conducts the business operated within the Town.

§ 120-5. Receipt for payment of license fees.

Whenever a license cannot be issued at the time the application for it is made, the Town Clerk shall issue a receipt to the applicant for the money paid in advance. The receipt shall not be construed as the approval of the Town Council for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this ordinance.

§ 120-6. License application.

- A. Every applicant for a license under the provisions of this ordinance shall make an application for such license upon forms provided by the Council which shall include the following information:
 - (1) The name and business address of the licensee;
 - (2) The trade, business, or occupation for which a license is requested;
 - (3) A statement that the applicant has complied and will continue to comply with all the ordinances of the Town. The application shall be verified by the oath or affirmation of the individual licensee or of one member of a partnership, firm, or association, or of the president, secretary, or a director of a corporation applying for a license.
 - (4) Such other information as the operations manager deems necessary.
- B. Such form shall include an affidavit which shall be sworn to by the applicant before a notary public of the state.
- C. The proper license fee shall accompany the application.

§ 120-7. Issuance, expiration, and form.

Upon proper application and payment of the prescribed fee, a license shall be issued to each such applicant, signed by the Mayor. Each such license shall be valid and effective from the first day of January of each year or the date of issuance to the last day of December of the same year. A record of all licenses issued and licensee fees paid shall be maintained at the Town Hall. Each such license shall be upon a form provided by the Town Clerk which shall set forth the following information:

- A. The name and business address of the licensee;
- B. The trade, business, or occupation for which the license is granted;
- C. The date of issuance of the license;
- D. The amount of the license fee paid to the Town.

§ 120-8. Denial of license.

- A. The Town Council shall upon disapproving any application submitted under the provisions of this ordinance, refund all fees paid in advance by the applicant pursuant to

the application, less a reasonable application processing charge; provided the applicant is not otherwise indebted to the Town, in which case the fees shall be applied to the Town-owned debts.

- B. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, the applicant shall not engage in the business for which the license was refused unless a license is issued to him pursuant to a judgment ordering it.

§ 120-9. Penalty for late payment of license fee.

In the event that the license fee set forth herein is not paid within 30 days of the sending of written notification by the Town, then the licensee shall incur a penalty fee in the amount of 10% per month of the amount of the license fee until the same is paid.

§ 120-10. Collection of fees.

- A. The amount of any unpaid fee, the payment of which is required pursuant to this ordinance, shall constitute a debt due the Town.
- B. The Town solicitor shall, at the direction of the Council, institute civil suit in the name of the Town to recover any unpaid fee.
- C. No civil judgment or any act by the solicitor or the violating licensee shall bar or prevent a criminal prosecution for each violation of this ordinance.

§ 120.11. Separate license for branch establishments and rental realty.

A license shall be obtained in the manner prescribed in this ordinance for each branch establishment or location of the business engaged in as if each branch establishment or location were a separate business; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this ordinance shall not be deemed to be separate places of business or branch establishments.

§ 120.12. No license required for deliveries.

No license shall be required of any person for any mere delivery in the Town of any property purchased or acquired in good faith from another person at his regular place of business outside the Town where no intent by that person is shown to exist to evade the provisions of this ordinance.

§ 120.13. Exemptions from license.

The following shall not be required to obtain a license:

- A. Telephone companies for pay telephones;
- B. Itinerant merchants paying a registration fee to participate in an event sponsored by a nonprofit or charitable organization.

§ 120.14. Special sales.

This ordinance shall apply to all business in the nature of special sales and it shall be unlawful for any person, either directly or indirectly, to conduct the sale if it is part of or connected with any regular and continuous business activity, except in conformity with the provisions of this ordinance.

§ 120.15. Supplemental licenses.

When a licensee places himself in a new status, the operations manager shall issue a supplemental license.

§ 120.16. Duplicate licenses.

A duplicate license or special permit shall be issued by the operations manager to replace any license previously issued which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit sworn to before a notary public of this state attesting to that fact and payment to the operations manager a fee of \$1.

§ 120.17. Liability of corporate officers, partnerships, etc.

The individuals composing any partnership, firm, or association and the president and directors of any corporation, and each of them, shall be personally liable for the license fees herein prescribed for such partnership, firm, association, or corporation and subject to prosecution for the conduct of a trade, business, or occupation by such partnership, firm, association, or corporation in the Town without the license herein required. In the event that any person shall maintain his main office at some place other than the Town and a branch office or place of business in the Town, the agent or representative who conducts said branch office or place of business in the Town shall also be personally liable for the license fees herein prescribed and subject to prosecution for the conduct of a trade, business, or occupation without the license herein required.

§ 120.18. Procedure for renewal of licenses.

- A. The applicant for the renewal of a license shall submit an application for that license to Town Clerk.
- B. The application shall:
 - (1) Be a written statement upon forms provided by the Town Clerk, the firm shall include an affidavit to be sworn to by the applicant before a notary public of this state.
 - (2) Require the disclosure of any information concerning the applicant's demeanor and the conduct and operation of the applicant's business during the preceding licensing period as is reasonably necessary to the determination by the Town Clerk of the applicant's eligibility for a renewal license and to a possible adjustment of the license fee.

§ 120-19. Change of business location.

A licensee hereunder shall have the right to change the location of the licensed business provided he shall:

- A. Obtain written permission from the operations manager for the change of location.

§ 120-20. Transfer of license.

Each license granted under this ordinance shall be for the sole use and benefit of the person to whom it is issued and shall not be transferable. In case of the death of any individual licensee, his personal representative shall succeed to all rights thereunder until the expiration of the license.

§ 120-21. Display.

Every person holding a license issued pursuant hereto shall expose such license in a conspicuous manner in the principal office of his place of business.

§ 120-22. General standards of conduct by licensee.

Every licensee under this ordinance shall:

- A. Ascertain and at all times comply with all laws and regulations applicable to the licensed business.

- B. Avoid all forbidden, improper or other practices or conditions which do or may affect the public health, morals, or welfare.
- C. Refrain from operating the licensed business after expiration of his license and during the period his license is revoked or suspended.

§ 120-23. Inspections.

- A. The Code Enforcement shall make or have made all investigations reasonably necessary to the enforcement of this ordinance.
- B. The Code Enforcement shall have the authority to order the inspection of licensees, their businesses and premises by all Town officials having duties to perform with reference to the licensees or businesses.
- C. All persons authorized by this section to inspect licensees and businesses shall have the authority to enter the premises to inspect at all reasonable times.
- D. Persons inspecting licensees, their businesses or premises, shall report all violations of this ordinance to the Town Council and shall submit any other reports that the Town Council shall order.

§ 120-24. Provisional orders.

- A. Generally.
 - (1) When an inspector has reported a violation of any ordinance by a holder of a license or any of his employees, the Code Enforcement shall issue a provisional order to the licensee.
 - (2) The provisional order shall require compliance within five days of service on the affected person.
- B. Hearing on provisional order. Upon written request by a person served with a provisional order pursuant to the provisions of this ordinance Town Council shall hold a hearing on the alleged violation; a notice of hearing shall be served in the manner required herein.
- C. Service of notices and orders. Provisional orders and all other notices issued pursuant to this ordinance shall be in writing, shall be personally served, and shall apprise the licensee of his specific violations. In the absence of the licensee or his agent or employee, a copy of the notice shall be affixed to some structure on the premises. Should any other permitted method of service of notice fail, then sending the notice to the affected person's last known address shall constitute service.

- D. Authority of Code Enforcement to modify orders. Upon written application or on his own motion, the Town Council shall have the authority, in a proper case, to extend the time for compliance, to grant a new hearing date and to change, modify, or rescind any recommendation or order.

§ 120-25. Final order.

- A. Upon the failure or refusal of the licensee to comply with the provisional order or with any order made after an opportunity for a hearing pursuant to this ordinance, the Town Council shall make the provisional order final.
- B. The Town Council shall have the authority to suspend or revoke a license upon making and declaring a provisional order final.
- C. Upon revocation or suspension, no refund or any portion of the license fee shall be made to the licensee and he shall immediately cease all business at all places under that license.

§ 120-26. Summary action.

- A. When the conduct of any licensee, agent, or employee is so inimicable to the public health, safety, and general welfare as to constitute a nuisance and thus give rise to an emergency, the Code Enforcement shall have the authority to summarily order the cessation of business and the close of premises or to suspend or revoke the license.
- B. Unless waived in writing within 10 days after he has acted summarily, the Council shall conduct a special hearing for the action in respect to the summary order as may be therein determined. Notice of the hearing shall be given the affected person in the manner prescribed herein.

§ 120-27. Appeals.

- A. Any person aggrieved by any decision of the Code Enforcement after a hearing conducted pursuant to this article shall have a right to appeal to the Council by filing a written appeal with the Council within 30 days following the effective date of the action or decision complained of. The appeal shall set out a copy of the order or decision appealed from and shall include a statement of the facts relied upon to avoid the order.
- B. The Council shall fix a time and place for hearing the appeal and shall serve a written notice upon the person requesting the appeal informing such person of the hearing. The Council shall also give notice to the Code Enforcement who shall be entitled to appear and defend the order. The findings of the Council shall be final and conclusive and shall be served upon the person who requested the appeal

Chapter 145

DISORDERLY PREMISES

§ 145-1. Definitions.

§ 145-2. Violations.

§ 145-3. Presumptions.

§ 145-4. Notice of Violation.

§ 145-5. Fines and Penalties.

§ 145-6. Additional Expenses.

**§ 145-7. Non-Payment of Fines and
Additional Expenses; Lien on
Real Estate and Cause of Action
for Recovery.**

§ 145-8. Enforcement.

§ 145-1. Definitions.

For purpose of the “Disorderly Premises” ordinance, the following definitions shall apply:

- (a) “Person” shall be defined as “any owner, owner’s agent, manager, caretaker, tenant, occupant and/or Person occupying and/or responsible for any residential, commercial or any other premises located in the Town of Frederica regardless of whether it be a Person or artificial entity.
- (b) “Unauthorized Conduct” shall be defined as “any conduct which causes public inconvenience, annoyance, alarm or danger to a reasonable Person, has the reasonable likelihood of causing public inconvenience, annoyance, alarm or danger or disrupts the quiet use, enjoyment and good order of adjoining and surrounding properties including, but not limited to, engaging in fighting or in violent, tumultuous, or threatening behavior, making unreasonable noise or an offensively coarse utterance gesture or display or addressing abusive language to any person present, obstructing vehicular traffic or pedestrian traffic, creating a hazardous or physically offensive condition which serves no legitimate purpose or engaging in any unlawful conduct.

§ 145-2. Violations.

It shall be unlawful for any Person to engage in any Unauthorized Conduct at any time on any premises located in the Town of Frederica. Any Person who fails to obey the order of a Police Officer to dispel and disperse or otherwise discontinue the Unauthorized Conduct may be cited for an additional violation of this Chapter.

§ 145-3. Presumptions.

Any Person who occupies or exercises any control over the premises where the violation of Section 2 hereof has occurred, or where the violation of Section 2 originated should the violation move immediately to another public venue, shall be presumed to allow, suffer or permit such conduct after receiving notice that such conduct has occurred and shall be in violation of this Chapter if a further violation of Section 2 occurs within one hundred eighty (180) days of receiving said notice.

§ 145-4. Notice of Violation.

(a) Notice is properly served upon a Person if a copy of such notice is:

- (1) delivered to the Person personally;
- (2) hand-delivered to the Person's registered office;
- (3) left at the Person's usual place of abode or business, in the presence of an employee or family member who has reached the age of majority, whichever the case may be, who shall be informed of the contents of such notice;
- (4) sent by certified mail, return receipt requested addressed to the Person at the Person's law known address; or
- (5) sent by certified mail, return receipt requested, to the mailing address of the owner of the subject premises as recorded in the Assessment Records.

(b) After service of notice, the Person shall make a good faith effort to develop a plan of action with the Council of the Town of Frederica and the Town of Frederica Police Department to prevent further violation of Section 2. Failure to make such effort to develop the plan shall be considered a violation of Section 2.

§ 145-5. Fines and Penalties.

Any Person convicted of a violation of this Chapter shall be fined no more than one thousand dollars (\$1,000.00) for any offense but no less than one hundred dollars (\$100.00) for the first offense, no less than three hundred dollars (\$300.00) for the second offense, and no less than five hundred dollars (\$500.00) for each subsequent like offense.

In the event that Person convicted is a minor, the minor's parents or guardian, shall be financially responsible for the payment of any and all fines assessed under this provision. In any prosecution for any offense under this Chapter, it shall be an affirmative defense,

which must be proved by the preponderance of the evidence, that the tenant or occupant has been evicted and is no longer on the premises, or if there is pending at the time of trial an eviction action against the tenant or occupant of the premises which action is being pursued in good faith. Otherwise the fines imposed under this Subsection shall not be suspended.

§ 145-6. Additional Expenses.

Any Person convicted of a violation of this ordinance shall be responsible for any and all additional expenses incurred by the Town of Frederica as a result of the Person's Unauthorized Conduct and shall indemnify the Town of Frederica and its personnel from any claims for loss of damage to person or property (real or personal) that may directly or indirectly be occasioned by the Unauthorized Conduct. In the event the Person convicted is a minor, the minor's parent or guardian shall be financially responsible for the payment thereof,

Additional expenses shall include, but shall not be limited to, attorney's' fees, court costs and expenses incurred in conjunction with any such claim, removal of all debris and litter from public property and surrounding properties affected by the Unauthorized Conduct, damage to personal property located on public property and surrounding properties, the cost of retaining outside law enforcement and/or other emergency assistance, the cost for police officers and other emergency personal or real public property, and personal injury damages (including death) to Town of Frederica employees and other outside law enforcement and/or emergency personnel.

§ 145-7. Non-Payment of Fines and Additional Expenses; Lien on Real Estate and Cause of Action for Recovery.

In the event a Person convicted of a violation of this ordinance fails or refuses to comply with a order of the Town of Frederica Police Department and/or the Town of Frederica Code Enforcement Officer, after due notice thereof, either actual or constructive, to remit payment for any fines or additional expenses owed in which the violation occurred and shall be a lien upon such real estate. Upon certification of a lien to the Town Solicitor by the Town of Frederica Police Department and/or the Town of Frederica Code Enforcement Officer, the amount of such lien shall be recorded in the Office of the Prothonotary where the property is located. The Town Solicitor in the name of the Town of Frederica, may institute suit before any Justice of the Peace within Kent County, or in the Court of Common Pleas in and for Kent County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid additional expenses in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.

§ 145-8. Enforcement.

The Town of Frederica Police Department and/or the Town of Frederica Code

Enforcement Officer shall enforce this Chapter. Jurisdiction for violations of this ordinance shall be in the Justice of the Peace Court.

Chapter 151

DISORDERLY ESTABLISHMENTS.

§ 151-1. Violations and penalties.

§ 151-3. Definitions.

§ 151-2. Classification of offenses.

§ 151-1. Violations and penalties.

Any person, firm, or corporation which establishes, keeps, maintains, or operates or permits to be established, kept, maintained, or operated a disorderly dwelling or business establishment on any premises owned or leased by such person, firm, or corporation with the limits of the Town of Frederica shall be deemed guilty of a violation and upon conviction thereof shall be fined not less than \$25 nor more than \$100, in addition to the costs of prosecution.

§ 151-2. Classification of offenses.

For the purpose of this Ordinance, each day that an offense prohibited by Section 1 above continues shall be considered a separate offense.

§ 151-3. Definitions.

For the purpose of this Ordinance, a disorderly dwelling or business establishment is defined as a dwelling that is kept in such a way as to disturb, annoy, and scandalize public generally, or the neighborhood, or the passers-by on a highway, or in such way as to encourage or promote breaches of the peace, or to corrupt the morals of the community.

Chapter 162

ENGINE RETARDERS

§ 162-1. Prohibitions.

§ 162-1. Prohibitions.

No person shall operate a truck engine or exhaust braking device, similar to devices commonly referred to as a "jake brake," within Town limits with the exception of U.S. Route 113. This ordinance shall not apply to emergency vehicles as defined by 21 Del. C. §4106(c).

Chapter 175

FEES, IMPACT

ARTICLE I

Imposition of Impact Fees

~~§ 175-1. Impact fees for residential dwelling units.~~

§ 175-2. Impact fees for water facilities.

ARTICLE II

Community Service Impact Fees

§ 175-3 Purpose.

§ 175-4 Amount of fee.

§ 175-5. Services.

§ 175-6. Annual review.

ARTICLE I

Imposition of Impact Fees

§175-2. Impact fees for water facilities.

A. Definitions: As used in this section, the following terms shall have the meanings indicated:

EDU -- Equivalent Dwelling Unit. An EDU is 300 GPD.

FU -- Fixture Unit.

GPD -- Gallons per day.

B. Determination of EDUs.

(1) Determination of an EDU shall be as follows:

- (a) House or dwelling with one kitchen and one or more baths and bedroom(s) separate from kitchen: 1.0 EDU.
- (b) Dwelling with one kitchen and one or more baths and bedroom(s) separate from kitchen and attached to other dwellings or structures: 1.0 EDU.
- (c) Apartment with one kitchen and one or more baths and bedroom(s) separate from kitchen: 1.0 EDU.

- (d) Efficiency unit or rental cottage having a living space in one room and having one bath: 1.0 EDU.
 - (e) Motel or hotel room without kitchen and with bath: 0.33 EDU.
 - (f) Gas station with one service bay: 2.0 EDU.
 - (g) Each additional gas station service bay in excess of one: 1.0 EDU.
 - (h) Retail store(s): building 0.10 GPD/square feet; 300 GPD = one EDU (one EDU/3,000 GPD) minimum building: 1.0 EDU.
 - (i) Laundromat: 300 GPD/washer. Minimum/building: 1.0 EDU.
 - (j) Office units: 0.3 GPD/square feet, 300 GPD = one EDU; (one EDU per 1,000 square feet) minimum/building: 1.0 EDU.
- (2) Establishments listed below as Subsection B(4)(a) through (e) shall be assigned EDU(s) as multiples of a basic dwelling house having an assignment of one EDU. A basic dwelling house shall be considered as:
- (a) One sink: two FUs.
 - (b) One toilet: two Fus.
 - (c) One lavatory: one FU.
 - (d) One bath or shower: one FU.
- (3) One EDU shall be equal to six Fus. For assessment purposes, Fus shall be assigned as follows:
- (a) Sink: two FU(s).
 - (b) Toilet: two FU(s).
 - (c) Washstand or lavatory: one FU.
 - (d) Bath and shower: one FU.
 - (e) Mop sink or service sink: one FU.
 - (f) Flush urinal: one FU.
 - (g) Continuous flush urinal: three FU(s).

- (h) Convenience outlet: one FU.
 - (i) Domestic dishwasher: one FU.
 - (j) Commercial dishwasher: three FU(s).
 - (k) Drinking fountain: one FU.
 - (l) Garbage disposal: one FU.
 - (m) Washing machine: one FU.
- (4) A minimum of one EDU plus additional EDU(s) based on FU(s) in excess of six will be assigned to the following:
- (a) Churches and attached facilities and buildings.
 - (b) Fire stations.
 - (c) Convention halls and public gathering places.
 - (d) Municipal buildings.
 - (e) Bus stations and other public depots.
- (5) Establishments listed below, Subsection B(5)(a) through (g), shall be assigned EDU(s) as a fixed number of EDU(s) plus a number of EDU(s) based on the number of FU(s). six FU(s) = one EDU.
- (a) Drive-in food service: one EDU + EDU/six FU(s).
 - (b) Delicatessen, including take-out: one EDU + EDU/six FU(s).
 - (c) Bars and lounges without food service: one EDU/50 seats + EDU/six FU(s).
 - (d) Restaurants and eating places including combination eat-in and take-out, and eating places with bar(s): one EDU/50 seats + EDU/six FU(s).
 - (e) Gas station without service bay: EDU/six FU(s) (minimum one EDU).
 - (f) Campgrounds and travel trailer parks with waste handling facility: one EDU/three sites + EDU/six FU(s).
 - (g) Campgrounds and travel trailer parks without waste handling facility: one EDU/six sites + EDU/six FU(s).

- (6) EDU(s) shall be assigned to establishments not covered in Subsection B(1),(4) and (5) above to assure that each establishment, in the opinion of Town Council is given a reasonable assignment of EDU(s) compatible with its use of the Town of Frederica Water System. Any aggrieved person may appeal in writing to Town Council. If an establishment does not have any physical facilities which have a load-producing effect on the Town of Frederica Water System, then the number of EDU(s) assigned to it shall be negotiable with Town Council.

C. Findings.

- (1) Pursuant to §175-1 herein, the Town of Frederica has determined that certain new users to be connected to the Town Water System will cause a reduction in the presently existing excess capacity of the facilities serving the Town and its environs, and will eventually contribute to the need to expand the capacity of the said facilities. The categories of new users are those located in current and future extensions of the boundaries of the currently existing water district.
- (2) It is determined that such new users should equitably contribute capital to be used for the future expansion of the said facilities pursuant to §175-1.

ARTICLE II Community Service Impact Fees

§ 175-3. Purpose.

The purpose of this Ordinance is to establish appropriate provisions for the equitable distribution of the costs of enlarging, improving and/or expanding municipal services, and to ensure that the cost of such enlargement, improvement, and/or expansion is proportionately borne by those who receive the benefits of such enlargement, improvement, and/or expansion of municipal services.

§ 175-4. Amount of fee.

Prior to the issuance of a Building Permit by the Town of Frederica to construct a new structure, the property owner shall pay the sum stated in Chapter 180 as a Community Service Impact Fee. No certificate of occupancy shall be granted until such fee is paid. No water service shall be provided to the new structure until the fee is paid.

§ 175-5. Services.

The Community Service Impact Fee will support the following services: fire and ambulance service, and police.

§ 175-6. Annual review.

The impact fee and the allocation thereof shall be received annually by the Mayor and Council and may be adjusted as part of the budgetary process.

Chapter 180

FEES, MUNICIPAL

§ 108-1. Fees established.

§ 180-1. Fees established.

The fee charges by the Town of Frederica for the various municipal services provided by the Town of Frederica shall be as stated in the table attached hereto and incorporated herein by this reference.

FEES, MUNICIPAL
180 Attachment 1

Town of Frederica
Fees

| Fee Categories | Total Owed | Base Fee | Escrow Account Amount | Subject to Prof Fees |
|---|-------------------------------------|--------------------------------|------------------------------|-----------------------------|
| Board of Adjustment Variances | \$ 200.00 | \$ 200.00 | N/A | N/A |
| Annexation Application | \$3,000.00 | \$1,200.00 | \$1,800.00 | Yes |
| Category A Conceptual Site Plan Review | \$1,200.00 | \$ 250.00 | \$ 950.00 | Yes |
| Category A Final Site Plan Review | \$1,300.00 | \$ 250.00 | \$1,050.00 | Yes |
| Category B Administrative Plan Review | \$ 750.00 | \$ 250.00 | \$ 500.00 | Yes |
| Professional Fees* (see below) | Billable to applicant | Varies | Varies | Yes |
| Rezoning | \$1,000.00 | \$1,000.00 | N/A | Yes |
| Utility Review | \$ 150.00 | \$ 150.00 | N/A | Yes |
| Certificate of occupancy | \$ 50.00 | \$ 50.00 | N/A | N/A |
| Community impact fee | \$ 750.00 | \$ 750.00 | N/A | N/A |
| Business license | | | | |
| -All other trades, bus. or occupations | \$ 50.00 | \$ 50.00 | N/A | N/A |
| -Distributors 1 to 49 employees | \$ 150.00 | \$ 250.00 | N/A | N/A |
| -Distributors 50 or more | \$ 500.00 | \$ 500.00 | N/A | N/A |
| -Gas, light, power, cable, TV, phone, IT | \$ 825.00 | \$ 825.00 | N/A | N/A |
| -Hotels per room | \$ 10.00 | \$ 10.00 | N/A | N/A |
| -Hotels per suite | \$ 15.00 | \$ 15.00 | N/A | N/A |
| -Manufacturers 1 to 49 employees | \$ 250.00 | \$ 250.00 | N/A | N/A |
| -Manufacturers 50 or more | \$ 500.00 | \$ 500.00 | N/A | N/A |
| -Mobile Home Park, per space | \$ 25.00 | \$ 25.00 | N/A | N/A |
| -Motel per room | \$ 10.00 | \$ 10.00 | N/A | N/A |
| -Motel per suite | \$ 15.00 | \$ 15.00 | N/A | N/A |
| Contractors license | \$ 50.00 | \$ 50.00 | N/A | N/A |
| Bulk trash delivered-regular size truck | varies | \$80.00/load | N/A | N/A |
| Bulk trash picked up-regular size truck | varies | \$160.00/load | N/A | N/A |
| Property tax rate | \$1.25 on \$1000.00 Assessed | \$125.00 on \$10,000.00 | N/A | N/A |

| | | | | |
|--|--------------------------------------|---------------------------------|------------|------------|
| Rental property license | \$ 75.00 | \$ 75.00 | N/A | N/A |
| Capitation Tax (per person) | \$ 10.00 | \$ 10.00 | N/A | N/A |
| Trash quarterly | \$ 80.00 | \$ 80.00 | N/A | N/A |
| Trash Late Payment Penalty | \$ 2% per month after 30 Days | | N/A | N/A |
| Credit card convenience fee | \$ 2.00 | \$ 2.00 | N/A | N/A |
| Public open space contribution | \$ 325.00/ dwelling unit | \$ 325.00/ dwelling unit | N/A | N/A |
| Return checks | \$ 25.00 | \$ 25.00 | N/A | N/A |
| Subdivision-conceptual | \$ 100.00 | \$ 100..00 | N/A | N/A |
| Subdivision-final plat approval | 100 + | 100+ | N/A | Yes |
| | \$50/acre 1st 10 acres | \$50/acre 1st 10 acres | N/A | Yes |
| | \$30/acre next 10 acres | \$30/acre next 10 acres | N/A | Yes |
| | \$20/acre for each after | \$20/acre for each after | N/A | Yes |
| Subdivision-preliminary | \$ 250.00 | \$ 250.00 | N/A | Yes |
| Transfer Tax | 1.5% | 1.5% | N/A | Yes |
| Vacant building fee-commercial | 1st 4 months \$500 | 1st 4 months \$500 | N/A | N/A |
| | each month after \$1,000 | each month after \$1,000 | N/A | N/A |
| Vacant building fee-residential | 1st 6 months \$200 | 1st 6 mos. \$200 | N/A | N/A |
| | each month after \$100 | each month after \$100 | N/A | N/A |
| Building Permit (up to \$5,000 Expense) | \$ 50.00 | \$ 50.00 | N/A | No |
| Building Permit (over \$5,000 Expense) | .5% of Cost | .5% of Cost | N/A | No |
| Renewal of Building Permit | \$ 50.00 | \$ 50.00 | N/A | No |
| Demolition permit | \$ 50.00 | \$ 50.00 | N/A | N/A |
| Public works staff fees | \$50.00 per hour | \$50.00 per hour | N/A | N/A |

| | | | | |
|--|----------------------------------|----------------------------------|------------|------------|
| Public works backhoe | \$85.00 per hour | \$85.00 per hour | N/A | N/A |
| Dump truck | \$75.00 per hour | \$75.00 per hour | N/A | N/A |
| | | | | |
| Lawn mowing | Service by contractor | Service by contractor | N/A | N/A |
| Nonpayment reconnection fee: | | | | |
| During working hours (8:00 a.m. to 4:00 p.m.) | \$ 50.00 | \$ 50.00 | N/A | N/A |
| After working hours and weekends | \$ 100.00 | \$ 100.00 | N/A | N/A |
| Water turn on/off non-emergency | \$10 per trip | \$10 per trip | N/A | N/A |
| Infrastructure inspection fees | 4% construction cost | 4% construction cost | N/A | Yes |
| Sewer connection base fee | Varies by size | Varies by size | N/A | Yes |
| Road restoration/additional pipe | beyond 20 feet cost + 15% | beyond 20 feet cost + 15% | N/A | Yes |
| 4-inch service | \$1,700.00 | \$1,700.00 | N/A | Yes |
| 6-inch service | \$2,600.00 | \$2,600.00 | N/A | Yes |
| Sewer impact fee | \$2,000.00 | \$2,000.00 | N/A | N/A |
| Sewer Quarterly-in Town | \$ 100.00 | \$ 100.00 | N/A | N/A |
| Sewer Quarterly-out of Town | \$ 121.67 | \$ 121.67 | N/A | N/A |
| Street opening permit | 10% of project cost | 10% of project cost | N/A | Yes |
| Temp hydrant admin fee | Future date | Future date | N/A | Yes |
| Temp hydrant usage rate | Future date | Future date | N/A | Yes |
| Water connection base fee | 3,000 Res 4,500 Com. | 3,000 Res 4,500 Com. | N/A | Yes |
| Road restoration/additional cost | | | N/A | Yes |
| 1-inch service 3,000 | \$1,250.00 | \$1,250.00 | N/A | Yes |
| 2-inch service 4,500 | \$3,600.00 | \$3,600.00 | N/A | Yes |
| Water impact fee | \$3,000.00 | \$2,000.00 | N/A | N/A |

| | | | | |
|--|-----------------------------------|---------------------------|------------|------------|
| Water meter fee varies | \$ 300.00 | \$ 300.00 | N/A | N/A |
| Water Quarterly-in Town-Residential | \$ 3.25 per 1,000 Gal. | \$ 15.00 | N/A | N/A |
| Water Quarterly Commercial | \$ 3.25 per 1,000 Gal. | Varies by Size | N/A | N/A |
| Conditional use | \$ 500.00 | \$ 500.00 | N/A | Yes |
| Sign Permit | \$ 50.00 | \$ 50.00 | N/A | N/A |
| Board of Adjustment Appeals | \$ 200.00 | \$ 500.00 | N/A | Yes |

NOTE:

- * Professional Fees will be billed as encumbered throughout the process and must be paid prior to the issuance of a building permit and/or recordation. (Professional fees-Town Solicitor, Engineer, Planner, etc.)

Chapter 188

FEEES FOR SUBDIVISION INSPECTIONS

§ 188-1. Definitions.

§188-3. Fees.

§ 188-2. Inspections.

§ 188-3. Annual review.

§ 188-1. Definitions.

For the purpose of this ordinance, a subdivision shall include a new development of five or more homes.

§ 188-2. Inspections.

The Town shall inspect all infrastructure, including but not limited to, taps, water lines, and sewer lines, in a subdivision before such infrastructure is buried.

§ 188-3. Fees.

Notwithstanding any other ordinance, a developer or builder shall pay the inspection fees state im Chapter 180 prior to the issuance of a building permit.

§ 188-4. Annual review.

The amount of the inspection fee shall be reviewed on an annual basis and may be adjusted as a part of the budgetary process.

Chapter 196

FENCES

ARTICLE I

Privacy Fences for Businesses Storing Vehicles

§ 196-1. Fence required.

§ 196-2. Violations and penalties.

§ 196-3. Unpaid fines as liens.

ARTICLE II

Outside Storage

§ 196-6. Requirements.

ARTICLE I

Privacy Fences for Businesses Storing Vehicles

§ 196-1. Fence required.

Whenever a business uses property for vehicle storage, a privacy fence must be installed so as to prevent persons outside the fence from observing stored vehicles. The privacy fence shall conform to the requirements and specifications of the Town of Frederica Land Development Ordinance.

§ 196-2. Violations and penalties.

Any owner or occupant of a property required to install a privacy fence who fails to do so shall be fined up to \$100 for each offense. Every day that a violation of this Ordinance continues shall be considered a separate offense.

§196-3. Unpaid fines as liens.

Any fines imposed pursuant to this Ordinance which remain unpaid shall be placed by the Town as specified in the municipal lien docket as a lien against the property on which the violation occurred and the Town Solicitor shall be directed to enforce the lien or to collect the charges imposed by the Town by any other means he may deem desirable and most advantageous.

ARTICLE II

Outside Storage

§ 196-6. Requirements.

Outside Storage shall be subject to the following requirements:

- (a) All items shall be stored and maintained in a neat and orderly manner and as compactly as practicable.
- (b) Storage shall be screened from view of adjacent properties and public rights-of-way and the height of the screening shall exceed the height of all stored items.
- (c) Items may not be stored in the required front setback of a property, in a parking or loading area or within 10 feet of a lot line.

Chapter 205

FIRE HAZARDS

§ 205-1. Accumulation of rubbish.

§ 205-2. Ashes.

§ 205-3 Oily materials.

§ 205-4 Burning of trash.

§ 205-5. Flammable liquids; storage under ground.

§ 205-6. Flammable liquids; storage above ground.

§ 205-7. Penalty.

§ 205-1. Accumulation of rubbish.

It shall be unlawful to maintain, keep or permit for a period longer than 7 days in any alley, or in or on any sidewalk, or on any land or lands within 30 feet of any building within the corporate limits of the Town, any empty boxes, barrels, rubbish, trash, waste paper, excelsior or other combustible materials.

§ 205-2. Ashes.

It shall be unlawful to place hot ashes in any wooden box, wooden barrel or other wooden container, or on any wooden floor within any building within the corporate limits of the Town.

§ 205-3. Oily materials.

It shall be unlawful to keep or permit to be kept on the premises any oil-containing waste or oily rags unless at all times when not actually in use, such waste or rags shall be kept in a metal can with self-closing cover and riveted joints standing on metal legs which raise the bottom of the container at least five inches above the floor.

§ 205-4. Burning of trash.

It shall be unlawful to burn trash, lumber, leaves, or straw, or any other combustible materials within the Town limits, except by permission by the D.N.R.E.C.. All such burning by permission shall be during the daylight hours and with an adult person in constant attendance while such articles are being burned.

§ 205-5. Flammable liquids; storage under ground.

It shall be unlawful to keep or store for the purpose of sale, or otherwise, on any premises occupied by any person, firm, or corporation within the distance of 200 feet from the outside limits of either side of any street within the Town, more than 10 gallons of gasoline or other flammable liquid unless it is kept or stored in a metal tank or tanks settled in the ground outside of any building or structure now standing, or which may hereafter be erected, at least 10 feet from the outside foundation of such building, the upper surface of which tank or tanks shall be at least 24 inches below the surface of the ground.

§ 205-6. Flammable liquids; storage above ground.

It shall be unlawful to store in bulk an excess of 50 gallons of gasoline or other flammable liquid in storage tanks or other containers above the level of the ground unless the person, firm, or corporation so storing such flammable liquid shall erect around the tanks or other containers a sufficient barrier constructed of high fire-resisting or non-inflammable material, having an inside containing capacity in excess of the total capacity of the tanks wherein such liquids are kept, and which barrier or container shall be constructed so as to prevent the escape of any of the contents of the tanks beyond the limits of such barrier. This section shall not apply to the storage of fuel oil or propane for consumption on the premises.

§ 205-7. Penalty.

Any person, firm, or corporation violating any of the provisions of this Chapter shall, upon conviction, be fined not less than \$25.00 or more than \$100 for each offense, and a separate offense shall be deemed committed on each day during, or on which a violation occurs or continues.

Chapter 212

FLOODPLAIN REGULATIONS

ARTICLE I General Provisions

- § 212-1. Findings.**
- § 212-2. Statement of Purpose.**
- § 212-3. Areas to Which These Regulations Apply.**
- § 212-4. Basis for Establishing Special Flood Hazard Areas.**
- § 212-5. Abrogation and Greater Restrictions.**
- § 212-6. Interpretation.**
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ARTICLE II Definitions

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- § 212-9. Designation of Floodplain Administrator.**
- § 212-10. Duties and Responsibilities of the Floodplain Administrator.**
- § 212-11. Permits Required.**
- § 212-12. Application Required.**
- § 212-13. Review, Approval or Disapproval.**

§ 212-14. Inspections.

- § 212-15. Submissions Required Prior to Foundation Inspection and Prior to Issuance of a Certificate of Occupancy.**

- § 212-16. Flood Insurance Rate Map Use and Interpretation.**

ARTICLE IV Requirements in All Special Flood Hazard Areas

- § 212-17. Application Requirements.**
- § 212-18. Subdivisions and Developments.**
- § 212-19. Protection of Water Supply and Sanitary Sewage Systems.**
- § 212-20. Buildings and Structures.**
- § 212-21. Fill.**
- § 212-22. Historic Structures.**
- § 212-23. Recreational Vehicles.**
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ARTICLE V Specific Requirements

- § 212-25. General Requirements.**
- § 212-26. Residential Structures and Residential Portions of Mixed Use Structures.**

**§ 212-27. Nonresidential Structures and
Nonresidential Portions of
Mixed Use Structures**

§ 212-30. Variances.

**ARTICLE VII
Enforcement**

§ 212-28. Accessory Structures.

§ 212-31. Compliance Required.

**§ 212-29. Protection of Flood-Carrying
Capacity.**

§ 212-32. Notice of Violation.

§ 212-33. Violations and Penalties.

**ARTICLE VI
Variances**

**ARTICLE I
General Provisions**

§ 212-1. Findings.

The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of Frederica. Special flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. Structures that are inadequately elevated, improperly floodproofed, or otherwise unprotected from flood damage also contribute to the flood loss.

The Town Council of the Town of Frederica by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on January 2, 1981. As of that date or the initial effective date of the Frederica Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with these regulations.

§ 212-2. Statement of Purpose.

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (A) Protect human life, health and welfare;
- (B) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (C) Minimize flooding of water supply and sanitary sewage disposal systems;
- (D) Maintain natural drainage;

- (E) Reduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding;
- (F) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (G) Minimize prolonged business interruptions;
- (H) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (I) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;
- (J) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (K) Provide that the flood storage and conveyance functions of the floodplain are maintained;
- (L) Minimize the impact of development on the natural and beneficial functions of the floodplain;
- (M) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (N) Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

§ 212-3. Areas to Which These Regulations Apply

These regulations shall apply to all special flood hazard areas within the jurisdiction of the Town of Frederica, as identified in Section § 212-4.

§ 212-4. Basis for Establishing Special Flood Hazard Areas

For the purposes of these regulations, the following are adopted by reference as a part of these regulations and serve as the basis for establishing special flood hazard areas:

- (A) The FEMA Flood Insurance Study for Kent, Delaware and Incorporated Areas dated July 7, 2014, and all subsequent amendments and/or the most recent revision thereof.
- (B) The FEMA Flood Insurance Rate Map for Kent, Delaware and Incorporated Areas dated July 7, 2014, and all subsequent amendments and/or the most recent revision thereof.
- (C) Other hydrologic and hydraulic engineering studies and/or maps prepared

pursuant to these regulations or for other purposes, and which establish base flood elevations, delineate 100-year floodplains, floodways or other areas of special flood hazard.

- (D) Frederica may identify and regulate new local flood hazard or ponding areas. These areas should be delineated and adopted on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.
- (E) Where field surveyed topography indicates that ground elevations are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a flood hazard map, the area shall be considered as special flood hazard area.

Maps and studies that establish special flood hazard areas are on file at the Town Hall.

§ 212-5. Abrogation and Greater Restrictions

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or easement, but the land subject to such interests shall also be governed by these regulations.

§ 212-6. Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body;
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes; and
- (D) Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence, where more restrictive.

§ 212-7. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the Town of Frederica, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that

results from reliance on these regulations or any administrative decision lawfully made thereunder.

§ 212-8. Severability

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE II Definitions

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory Structure: A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Area of Shallow Flooding: A designated Zone AO on a community's Flood Insurance Rate Map with a one percent annual chance or greater of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 100-year flood (or the 1%-annual-chance flood).

Base Flood Discharge: The volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

Base Flood Elevation: The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. In areas of shallow flooding, the base flood elevation is the natural grade elevation plus the depth number specified in feet on the Flood Insurance Rate Map, or at least 2 feet if the depth number is not specified.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevation Certificate: The *National Flood Insurance Program, Elevation Certificate* (FEMA Form 086-0-33), used to document building elevations and other information about buildings. When required to be certified, the form shall be completed by a licensed professional land surveyor.

Enclosure Below the Lowest Floor: An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access, or storage, in an area other than a basement.

Federal Emergency Management Agency (FEMA): The federal agency with the overall responsibility for administering the National Flood Insurance Program.

FEMA Technical Bulletin: A series of guidance documents published by FEMA to provide guidance concerning building performance standards of the National Flood Insurance Program. See sections where specific TBs are identified.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage-Resistant Materials: Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. See FEMA Technical Bulletin #2- *Flood Damage-Resistant Materials Requirements* and FEMA Technical Bulletin #8 - *Corrosion Protection for Metal Connectors in Coastal Areas*.

Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, and to designate applicable flood zones.

Zone A: Special flood hazard areas inundated by the 1% annual chance flood; base flood elevations are not determined.

Zone AE: Special flood hazard areas subject to inundation by the 1% annual chance flood; base flood elevations are determined; floodways may or may not be determined.

Zone AQ: Areas of shallow flooding, with or without a designated average flood depth.

Zone X (shaded): Areas subject to inundation by the 500-year flood (0.2% annual chance); areas subject to the 1% annual chance flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone X (unshaded): Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

Zone VE: Special flood hazard areas subject to inundation by the 1% annual chance flood and subject to high velocity wave action (also referred to as coastal high hazard areas).

Limit of Moderate Wave Action (LiMWA): The inland limit of the area affected by waves greater than 1.5 feet during the base flood. Base flood conditions between the Zone VE and the LiMWA will be similar to, but less severe than, those in the Zone VE.

Flood Insurance Study: The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and the water surface elevations.

Floodplain: Any land area susceptible to being inundated by water from any source (see "Flood" or "Flooding").

Dry Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodproofing Certificate: The *National Flood Insurance Program, Floodproofing Certificate for Non-Residential Structures* (FEMA Form 86-0-34), used by registered professional engineers and architects to certify dry floodproofing designs.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to pass the base flood discharge such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height.

Floodway Fringe Area: Portion of the special flood hazard area that is adjacent to and landward of a designated floodway shown on a Flood Insurance Rate Map.

Freeboard: A factor of safety usually expressed in feet above a flood elevation for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: Any structure that is:

- (1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Determined eligible for listing on the National Register of Historic Places by the Delaware State Historic Preservation Officer; or
- (4) Determined to contribute to the historic significance of a district that has been determined by the Delaware State Historic Preservation Officer, to be eligible for listing on the National Register of Historic Places.

Hydrologic and Hydraulic Engineering Analysis: An analysis performed by a professional engineer, licensed in the State of Delaware, in accordance with standard engineering practices as accepted by FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letter of Map Change: A Letter of Map Change is an official FEMA determination, by letter, to amend or revise an effective Flood Insurance Rate Map, Flood Boundary and Floodway Map, and Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was inadvertently included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood; in order to qualify for this determination, the fill must have been permitted and placed in accordance with these regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project complies with the minimum National Flood Insurance Program requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies; upon submission to and approval of certified as-built documentation, a Letter of Map Revision may be issued.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

New Construction: Buildings and structures for which the "start of construction" commenced on or after January 2, 1981, including any subsequent improvements to such structures.

Person: An individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Recreational Vehicle: A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area: The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, and Zone VE. The term includes areas shown on other flood hazard maps that are specifically listed or otherwise described in Section § 212-4.

Start of Construction: The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure (or Building): For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in these regulations is presumed to be in violation until such time that documentation is provided.

ARTICLE III Administration

§ 212-9. Designation of the Floodplain Administrator

The Mayor of the Town of Frederica is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator is authorized to: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another jurisdiction or agency, or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

§ 212-10. Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (A) Review applications for permits to determine whether proposed activities

will be located in special flood hazard areas.

- (B) Interpret floodplain boundaries and provide flood elevation and flood hazard information.
- (C) Review applications to determine whether proposed activities will be reasonably safe from flooding.
- (D) Review applications to determine whether all necessary permits have been obtained from those Federal, state or local agencies from which prior or concurrent approval is required.
- (E) Verify that applicants proposing to alter or relocate a watercourse have notified adjacent communities and the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship), and have submitted copies of such notifications to the Federal Emergency Management Agency.
- (F) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or disapprove the same in the event of noncompliance.
- (G) Inspect buildings and lands to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.
- (H) Review submitted Elevation Certificates for completeness.
- (I) Submit to FEMA data and information necessary to maintain flood hazard maps, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Frederica, corrections to labeling or planimetric details, etc.
- (J) Maintain and permanently keep all records for public inspection that are necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing permits, elevation certificates, other required certifications, variances, and records of enforcement actions taken for violations of these regulations.
- (K) Enforce the provisions of these regulations.
- (L) Assist with and coordinate flood hazard map maintenance activities.
- (M) Conduct determinations as to whether existing buildings and structures damaged by any cause and located in special flood hazard areas, have been substantially damaged.
- (N) Make reasonable efforts to notify owners of substantially damaged buildings and structures of the need to obtain a permit prior to repair, rehabilitation, or reconstruction, and to prohibit the non-compliant repair of

substantially-damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a structure to prevent additional damage.

- (O) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assisting owners with National Flood Insurance Program claims for Increased Cost of Compliance payments.
- (P) Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Frederica have been modified.

§ 212-11. Permits Required

It shall be unlawful for any person or entity to begin construction or other development which is wholly within, partially within, or in contact with any identified special flood hazard area, as established in Section 1.4, including but not limited to: subdivision of land, filling, grading, or other site improvements and utility installations; construction, alteration, remodeling, improvement, replacement, reconstruction, repair, relocation, or expansion of any building or structure; placement or replacement of a manufactured home; recreational vehicles; installation or replacement of storage tanks; or alteration of any watercourse, until a permit is obtained from the Town of Frederica. No such permit shall be issued until the requirements of these regulations have been met.

§ 212-12. Application Required

Application for a permit shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual start of construction. The application shall be on a form furnished for that purpose.

(A) Application Contents.

At a minimum, applications shall include:

- (1) Site plans drawn to scale showing the nature, location, dimensions, existing and proposed topography of the area in question, the limits of any portion of the site that was previously filled, and the location of existing and proposed structures, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
- (2) Elevation of the existing natural ground where structures are proposed,

referenced to the datum on the Flood Insurance Rate Map, and an Elevation Certificate that shows the ground elevation and proposed building elevations (identified in Section C of the Elevation Certificate as "Construction Drawings").

- (3) Delineation of special flood hazard areas, floodway boundaries, flood zones, and base flood elevations. Where surveyed natural ground elevations are lower than the base flood elevations, base flood elevations shall be used to delineate the boundary of special flood hazard areas. If proposed, changes in the delineation of special flood hazard areas shall be submitted to and approved by FEMA in accordance with Section 3.4(8). Where special flood hazard areas are not delineated or base flood elevations are not shown on the flood hazard maps, the Floodplain Administrator has the authority to require the applicant to use information provided by the Floodplain Administrator, information that is available from other sources, or to determine such information using accepted engineering practices. The applicant may submit analyses and studies that determine base flood elevations and delineate flood hazard areas. Analyses and studies shall be submitted to and approved by FEMA prior to recordation.
- (4) For subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, and where base flood elevations are not shown on Flood Insurance Rate Maps, hydrologic and hydraulic engineering analyses and studies as required by Section 4.2(D). Analyses and studies shall be submitted to and approved by FEMA prior to recordation.
- (5) For subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, and that are contiguous to streams with upstream watershed areas greater than 1 square mile and without FEMA-delineated special flood hazard areas, hydrologic and hydraulic engineering analyses as required by Section 4.2(E).
- (6) Elevation of the lowest floor, including basement, or elevation of the bottom of the lowest horizontal structural member, as applicable to the flood zone, of all proposed structures, referenced to the datum on the Flood Insurance Rate Maps.
- (7) Drawings, diagrams, or descriptions of the proposed foundation in sufficient detail to demonstrate compliance with the requirements of this ordinance.
- (8) Drawings, diagrams, or descriptions of the proposed location of service equipment and utilities in sufficient detail to demonstrate compliance with the requirements of Section § 212-20 (D) or (E).
- (9) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the area to be filled; and evidence that the proposed fill is the

minimum necessary to achieve the intended purpose.

- (10) Such other material and information as may be requested by the Floodplain Administrator necessary to determine conformance with these regulations.
- (11) For work on an existing structure, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes substantial improvement, including:
 - (a) Documentation of the market value of the structure before the improvement is started or before the damage occurred.
 - (b) Documentation of the actual cash value of all proposed improvement work, or the actual cash value of all work necessary to repair and restore damage to the before damaged condition, regardless of the amount of work that will be performed.
- (12) Certifications and/or technical analyses prepared or conducted by an appropriate design professional licensed in the State of Delaware, as appropriate to the type of development activity proposed and required by these regulations:
 - (a) Floodproofing Certificate for dry floodproofed non-residential structures, as required in Section § 212-27.
 - (b) Certification that flood openings that do not meet the minimum requirements of Section § 212-26 (B)(3)(b) are designed to automatically equalize hydrostatic flood forces.
 - (c) Technical analyses to document that the flood carrying capacity of any watercourse alteration or relocation will not be diminished and documentation of maintenance assurances as required in Section § 212-29 (C).
 - (d) Hydrologic and hydraulic engineering analyses demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but has not delineated a floodway, as required by Section § 212-29 (B).
 - (e) Hydrologic and hydraulic engineering analyses of any development proposed to be located in an identified floodway, as required by Section § 212-29 (A).
 - (f) Hydrologic and hydraulic engineering analyses to develop base flood elevations for subdivisions and large-lot

developments, as required by Section § 212-18 (D) or otherwise required by the Floodplain Administrator.

(B) Right to Submit New Technical Data

- (1) The applicant has the right to seek a Letter of Map Change and to submit new technical data to FEMA regarding base maps, topography, special flood hazard area boundaries, floodway boundaries, and base flood elevations. Such submissions shall be prepared in a format acceptable by FEMA and the Floodplain Administrator shall be notified of such submittal. Submittal requirements and processing fees shall be the responsibility of the applicant.
- (2) New technical data, including topography based on previous placement of fill or proposed placement of fill to raise the ground level, shall not be deemed to remove from the special flood hazard area any portion of the filled area that is less than 18 inches above the base flood elevation.

(C) Requirement to Submit New Technical Data

The Floodplain Administrator shall notify FEMA of physical changes affecting flood hazard areas and flooding conditions by submitting technical or scientific data as soon as practicable, but not later than six (6) months after the date such information becomes available. The Floodplain Administrator has the authority to require applicants to submit technical data to FEMA for Letters of Map Change.

§ 212-13. Review, Approval or Disapproval

(A) Review

The Floodplain Administrator shall:

- (1) Review applications for development in special flood hazard areas to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information required to support the application.
- (2) Review applications for compliance with these regulations after all information required in Section 3.4 or identified and required by the Floodplain Administrator has been received.
- (3) Review all permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including but not limited to:
 - (a) Permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Delaware Environmental Protection

Agency under Section 401 of the Clean Water Act.

(b) Permits required by the State of Delaware.

(B) Approval or Disapproval

The Floodplain Manager shall approve applications that comply with the applicable requirements of these regulations. The Floodplain Manager shall disapprove applications for proposed development that does not comply with the applicable provisions of these regulations and shall notify the applicant of such disapproval, in writing, stating the reasons for disapproval.

(C) Expiration of Permit

A permit is valid provided the actual start of construction occurs within 180 days of the date of permit issuance. If the actual start of construction is not within 180 days of the date of permit issuance, requests for extensions shall be submitted in writing. Upon reviewing the request and the permit for continued compliance with these regulations, the

Floodplain Administrator may grant, in writing, one or more extensions of time, for periods not more than 180 days each.

§ 212-14. Inspections

The Floodplain Administrator shall make periodic inspections of development permitted in special flood hazard areas, at appropriate times throughout the period of construction in order to monitor compliance. Such inspections may include:

- (A) Stake-out inspection, to determine location on the site relative to the special flood hazard area and floodway.
- (B) Foundation inspection, upon placement of the lowest floor and prior to further vertical construction, to collect information or certification of the elevation of the lowest floor.
- (C) Enclosure inspection, including crawlspaces, to determine compliance with applicable provisions.
- (D) Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the base flood elevation.
- (E) Storage of Materials

§ 212-15. Submissions Required Prior to Foundation Inspection and Prior to Issuance of a Certificate of Occupancy

The following certifications are required to be submitted by the permittee for development that is permitted in special flood hazard areas prior to the foundation inspection and prior issuance of a Certificate of Occupancy:

- (A) For new or substantially improved residential structures or nonresidential structures that have been elevated, the applicant shall:
 - (1) As part of the foundation inspection and placement the lowest floor, and prior to further vertical construction, submit an Elevation Certificate that shows the ground elevation and floor elevation (identified in Section C of the Elevation Certificate as "Building Under Construction").
 - (2) Prior to Issuance of the Certificate of Occupancy, submit an Elevation Certificate (identified in Section C of the Elevation Certificate as "Finished Construction").
- (B) For nonresidential structures that have been dry floodproofed, a Floodproofing Certificate based on "Finished Construction" (identified in Section II).
- (C) For all development activities subject to the requirements of Section § 212-12. (B), a Letter of Map Revision shall be provided.

§ 212-16. Flood Insurance Rate Map Use and Interpretation

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of special flood hazard maps and data:

- (A) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified special flood hazard areas, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used. When a Preliminary Flood Insurance Rate Map has been provided by FEMA to identify base flood Elevations where such elevations were not previously shown, the base flood elevations on the Preliminary Flood Insurance Rate Map shall be used.
- (B) Special flood hazard area delineations, base flood elevations, and floodway boundaries on FEMA maps and in FEMA studies shall take precedence over delineations, base flood elevations, and floodway boundaries by any other source that reflect a reduced special flood hazard area, reduced floodway width and/or lower base flood elevations, unless, with the approval of the Floodplain

Administrator, such data are submitted to and approved by FEMA.

- (C) Other sources of data shall be reasonably used, with the approval of the Floodplain Administrator, if they show increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies and if such data are submitted to and approved by FEMA.
- (D) Where field surveyed topography indicates that ground elevations are below the base flood elevation, even in areas not delineated as a special flood hazard on a flood hazard map, the area shall be considered as special flood hazard area.

ARTICLE IV

Requirements in All Special Flood Hazard Areas

§ 212-17. Application of Requirements

The general requirements of this section apply to all development proposed within special flood hazard areas identified in Section § 212-4.

§ 212-18. Subdivisions and Developments

- (A) All subdivision and development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (B) All subdivision and development proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (C) All subdivision and developments proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (D) All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in FEMA-delineated special flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway delineations. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.
- (E) All subdivisions proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, that are contiguous to streams with upstream watershed areas greater than 1 square mile and without FEMA delineated special flood hazard areas, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations. The analyses shall be prepared by a licensed professional engineer in accordance with FEMA flood study criteria.

- (F) Except in special flood hazards areas prone to flooding from coastal sources, each lot in major subdivisions, as defined by the community, shall have sufficient buildable area for planned buildings to be located outside of the special flood hazard area. Portions of lots not identified for planned buildings may be located in special flood hazard areas. In such major subdivisions, only water-dependent structures such as docks, boat launches, boat ramps, and boat storage buildings shall be permitted in special flood hazard areas.

§ 212-19. Protection of Water Supply and Sanitary Sewage Systems

- (A) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- (B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
- (C) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding.

§ 212-20. Buildings and Structures

All new construction of buildings and structures, including placement of manufactured homes and substantial improvements to existing buildings and structures, that are to be located, in whole or in part, in special flood hazard areas, and buildings and structures to be located on previously filled areas where the filled ground surface is less than 18 inches above the base flood elevation, shall meet the following requirements.

- (A) Be designed (or modified) and constructed to safely resist flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. Buildings and structures shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses from flooding equal to the design flood elevation, including hydrodynamic and hydrostatic loads and the effects of buoyancy.
- (B) Be constructed by methods and practices that minimize flood damage.
- (C) Use flood damage-resistant materials below the elevation of the lowest floor. See FEMA Technical Bulletin #2 -*Flood Damage-Resistant Materials Requirements* and FEMA Technical Bulletin #8 - *Corrosion Protection for Metal Connectors in Coastal Areas*.
- (D) Have electrical systems, equipment and components, and heating,

ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the lowest floor. Electrical wiring systems are permitted to be located below the elevation of the lowest floor provided they conform to the provisions of the electrical part of this code for wet locations. If replaced as part of a substantial improvement, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section. See FEMA Technical Bulletin #4 - *Elevator Installation*.

- (E) As an alternative to Section § 212-20. (D), electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the lowest floor provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of the base flood.
- (F) In special flood hazard areas and previously-filled areas where the filled ground surface is less than 18 inches above the base flood elevation, meet the specific requirements of Section 5.
- (G) In a special flood hazard area with more than one designation (Zones A, AE, and AO, floodway), meet the requirements of the most restrictive designation.

§ 212-21. Fill

- (A) Disposal of fill, including but not limited to rubble, construction debris, woody debris, and trash, shall not be permitted in special flood hazard areas.
- (B) Where permitted by Section 5 (Zones A, AE, and AO), fill placed for the purpose of raising the ground level and to support a building or structure shall meet the following requirements:
 - (1) Extend laterally from the building footprint to provide for adequate access, as a function of use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office and/or the local fire services agency.
 - (2) Placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling.
 - (3) Consist of soil or rock materials only.
 - (4) Sloped no steeper than one (1) vertical on two (2) horizontal,

unless approved by the Floodplain Administrator.

- (5) Designed with provisions for adequate drainage and no adverse effect on adjacent properties.

- (C) Fill placed for a purpose other than to support a building or structure shall meet the requirements of § 212-21 (B)(2) through (B)(5).

§ 212-22. Historic Structures

Repair, alteration, or rehabilitation of historic structures shall be subject to the requirements of these regulations unless a determination is made that compliance with these regulations will preclude the structure's continued designation as a historic structure and a variance is granted in accordance with Section 6 and such variance is the minimum necessary to preserve the historic character and design of the structure.

§ 212-23. Recreational Vehicles

- (A) Recreational vehicles in special flood hazard areas shall be fully licensed and ready for highway use, and shall be placed on a site for less than 180 consecutive days.
- (B) Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section § 212-26. (C) for manufactured homes.

§ 212-24. Gas or Liquid Storage Tanks

- (A) Underground tanks in special flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (B) Above-ground tanks in special flood hazard areas shall be elevated and anchored to or above the base flood elevation plus 18 inches or shall be anchored at-grade and designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (C) In special flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
 - (1) At or above the base flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood.
 - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

ARTICLE V

Specific Requirements

§ 212-25. General Requirements

In addition to the general requirements of Section 4.0, the requirements of this section apply to all development proposed in special flood hazard areas.

§ 212-26. Residential Structures and Residential Portions of Mixed Use Structures

(A) Elevation Requirements

- (1) The lowest floor (including basement) shall be elevated to or above the base flood elevation plus 18 inches.
- (2) In areas of shallow flooding (Zone AO), the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map plus 18 inches, or at least 2 feet plus 18 inches if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.
- (3) Enclosures below the lowest floor shall meet the requirements of Section § 212-26(B).

(B) Enclosures Below the Lowest Floor

- (1) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access, crawlspaces, or limited storage.
- (2) Enclosures below the lowest floor shall be constructed using flood damage-resistant materials. See FEMA Technical Bulletin #2 - *Flood Damage-Resistant Materials Requirements*.
- (3) Enclosures below the lowest floor (including crawl spaces) shall be provided with flood openings which shall meet the following criteria (see FEMA Technical Bulletin #1 - *Openings in Foundation Walls and Walls of Enclosures*):
 - (a) There shall be a minimum of two openings on different sides of each enclosed area; if a building has more than one enclosed area below the design flood elevation, each area shall have openings on exterior walls.
 - (b) The total net area of all openings shall be at least 1 square inch for each square foot of enclosed area, or the openings shall be designed and certified by a registered engineer or architect to provide for equalization of hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters.

- (c) The bottom of each opening shall be 1 foot or less above the adjacent ground level.
- (d) Any louvers, screens or other opening covers shall allow the automatic flow of floodwaters into and out of the enclosed area.
- (4) Where installed in doors and windows, openings that meet requirements of § 212-26(B)(3)(a) through (d), are acceptable; however, doors and windows without installed openings do not meet the requirements of this section.
- (5) Crawlspace shall have the finished interior ground level equal to or higher than the outside finished ground level on at least one entire side of the foundation wall.

(C) Manufactured Homes

New or replacement manufactured homes, including substantial improvement of existing manufactured homes, shall:

- (1) Be elevated on a permanent, reinforced foundation that raises the lowest floor to or above the base flood elevation plus 18 inches and is otherwise in accordance with Section § 212-26(A).
- (2) Be installed in accordance with the anchor and tie-down requirements of the building code or the manufacturer's written installation instructions and specifications.
- (3) Have enclosures below the elevated manufactured home, if any, meet the requirements of Section § 212-26(8).

For the purpose of this requirement, the lowest floor of a manufactured home is the bottom of the lowest horizontal supporting member of the lowest floor.

§ 212-27. Nonresidential Structures and Nonresidential Portions of Mixed Use Structures

(A) Elevation Requirements

- (1) The lowest floor (including basement) shall be elevated to or above the base flood elevation plus 18 inches or the structure shall be dry floodproofed in accordance with Section § 212-27(8).
- (2) In areas of shallow flooding (Zone AO), if not dry floodproofed, the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map plus 18 inches, or at least 2 feet plus 18 inches if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.

- (3) Enclosures below the lowest floor, if not dry floodproofed, shall meet the requirements of Section § 212-26 (8).

(B) Dry Floodproofing Requirements

Dry floodproofed structures, together with attendant utility and sanitary facilities, shall:

- (1) Be designed to be dry floodproofed such that the structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the base flood elevation plus 18 inches. In areas of shallow flooding (Zone AO), the structure shall be dry floodproofed at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map plus 18 inches, or at least 2 feet plus 18 inches if a depth number is not specified. plus 18 inches.
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) Be certified by a licensed professional engineer or licensed professional architect with a Floodproofing Certificate, that the design and methods of construction meet the requirements of this section. Refer to FEMA Technical Bulletin #3 - *Non-Residential Floodproofing - Requirements and Certification* for guidance.

§ 212-28. Accessory Structures

Accessory structures shall meet the requirements of these regulations. Accessory structures that have a footprint of no more than 200 square feet may be allowed without requiring elevation or floodproofing provided such structures meet all of the following requirements:

- (A) Useable only for parking or limited storage;
- (B) Constructed with flood damage-resistant materials below the base flood elevation;
- (C) Constructed and placed to offer the minimum resistance to the flow of flood waters;
- (D) Firmly anchored to prevent flotation, collapse, and lateral movement;
- (E) Electrical service and mechanical equipment elevated to or above the level of the base flood elevation plus 18 inches ;and
- (F) Equipped with flood openings that meet the requirements of Section § 212-26 (8).

- (G) For guidance, see FEMA Technical Bulletin #7 - *Wet Floodproofing Requirements*.

§ 212-29. Protection of Flood-Carrying Capacity

(A) Development in Floodways

Within any floodway area designated on the Flood Insurance Rate Map, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic engineering analysis that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Such technical data shall be submitted to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

The proposed development activity may be permitted if the analyses demonstrate that the activity:

- (1) Will not result in any increase in the base flood elevation; or
- (2) Will result in an increase in the base flood elevation and the compensatory storage requirements of Section § 212-29(D) are met and a Conditional Letter of Map Revision has been issued by FEMA; or
- (3) Will result in an increase in the base flood elevation, provided a Conditional Letter of Map Revision has been issued by FEMA and the applicant completes all of the following:
 - (a) Submits technical data required in Section § 212-12.(A)(12)(d);
 - (b) Evaluates alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - (c) Certifies that no structures are located in areas which would be impacted by the increased base flood elevation;
 - (d) Documents that individual legal notices have been delivered to all impacted property owners to explain the impact of the proposed action on their properties;
 - (e) Requests and receives concurrence of the Mayor of the Town of Frederica and the Chief Executive Officer of any other community impacted by the proposed actions; and
 - (f) Notifies the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship).

(B) Filling in Floodway Fringe Areas

For development activities that involve the placement of **fill** in floodway fringe areas, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting the proposed activity and shall submit the analyses and data to the Floodplain Administrator. The analyses shall be prepared by a licensed professional engineer.

The proposed development activity may be permitted if the analyses demonstrate that the cumulative effect of the proposed development activity, when combined with all other existing and potential flood hazard area encroachments will not increase the base flood elevation more than 0.1 (one-tenth) foot at any point; compensatory storage in compliance with Section § 212-29(D) may be provided to meet this requirement.

(C) Development in Areas with Base Flood Elevations but No Floodways

For development activities in a special flood hazard area with base flood elevations but no designated floodways, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting the proposed activity and shall submit such analyses and data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

The proposed development activity may be permitted if the analyses demonstrate that the cumulative effect of the proposed development activity, when combined with all other existing and potential special flood hazard area encroachments will not increase the base flood elevation more than 0.1 (one-tenth) foot at any point; compensatory storage in compliance with Section § 212-29(D) may be provided to meet this requirement.

(D) Compensatory Storage

If the compensatory storage alternative in Section § 212-29(A)(2) or Section § 212-29(B) is selected to compensate for the loss of storage volume due to development, the following requirements shall apply:

- (1) Compensatory storage shall be hydraulically equivalent and such equivalency shall be demonstrated through hydrologic and hydraulic engineering analyses;
- (2) Compensatory storage areas shall be designed to drain freely to the watercourse; and
- (3) A restriction against modification of the compensatory storage area shall be recorded on the deed of the property where it is located and the restriction shall be binding on future owners.

(E) Deliberate Alterations of a Watercourse

For the purpose of these regulations, a watercourse is deliberately altered when a person causes a change to occur within its banks. Deliberate changes to a watercourse include, but are not limited to: widening, deepening or relocating of the channel; installation of culverts; construction of bridges, and excavation or filling of the channel or watercourse banks.

For any proposed deliberate alteration of a watercourse, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting such changes and submit such technical data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

The proposed alteration of a watercourse may be permitted upon submission, by the applicant, of the following:

- (1) Documentation of compliance with Section § 212-29(A) if the alteration is in a floodway or Section § 212-29(C) if the alteration is in a watercourse with base flood elevations but no floodway.
- (2) A description of the extent to which the watercourse will be altered or relocated as a result of the proposed development.
- (3) A certification by a licensed professional engineer that the bankful flood carrying capacity of the watercourse will not be diminished.
- (4) Evidence that adjacent communities, the U.S. Army Corps of Engineers, and the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship) have been notified of the proposal and evidence that such notifications have been submitted to the Federal Emergency Management Agency.
- (5) Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with Town of Frederica specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.

ARTICLE VI
Variances

§ 212-30. Variances

The Board of Adjustment of the Town of Frederica shall have the power to authorize, in specific cases, such variances from the requirements of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(A) Application for a Variance

- (1) Any owner, or agent thereof, of property for which a variance is sought shall submit an application for a variance to the Floodplain Administrator.
- (2) At a minimum, such application shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request. Each variance application shall specifically address each of the considerations in Section § 212-30(B) and the limitations and conditions of Section § 212-30(C).

(B) Considerations for Variances

In considering variance applications, the Board of Adjustment shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed development to the community.
- (5) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
- (6) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the comprehensive plan for that

area.

- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(C) Limitations for Variances

- (1) An affirmative decision on a variance request shall only be issued upon:
 - (a) A showing of good and sufficient cause. A "good and sufficient" cause is one that deals solely with the physical characteristics of the property and cannot be based on the character of the planned construction or substantial improvement, the personal characteristics of the owner or inhabitants, or local provisions that regulate standards other than health and public safety standards.
 - (b) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property.
 - (c) Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 - (d) A determination that the granting of a variance for development within any designated floodway, or special flood hazard area with base flood elevations but no floodway, will not result in increased flood heights beyond that which is allowed in these regulations.
 - (e) A determination that the granting of a variance will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 - (f) A determination that the structure or other development is protected by methods to minimize flood damages.
 - (g) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (2) Upon consideration of the individual circumstances, the limitations and

conditions, and the purposes of these regulations, the Board of Adjustment may attach such conditions to variances as it deems necessary to further the purposes of these regulations.

- (3) The Board of Adjustment shall notify any applicant in writing to whom a variance is granted for a building or structure with a lowest floor elevation below the base flood elevation that the variance is to the floodplain management requirements of these regulations only, and that the cost of federal flood insurance will be commensurate with the increased risk.

ARTICLE VII Enforcement

§ 212-31. Compliance Required

- (A) No structure or land development shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations.
- (B) Failure to obtain a permit shall be a violation of these regulations and shall be punishable in accordance with Section § 212-33.
- (C) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that is contrary to that authorized shall be deemed a violation of these regulations.

§ 212-32. Notice of Violation

In the event of a violation of this Ordinance, the Floodplain Administrator shall issue a summons to the owner of the property. The summons shall be served personally or by certified mail upon the owner. The summons shall cite the violation of this Ordinance and shall be accompanied by a letter or a copy of the relevant provisions of the Ordinance stating what corrective action must be taken and shall state the consequences for failure to take such corrective action.

§ 212-33. Violations and Penalties

If the violation is not corrected within thirty days from the date of personal service of the summons or from the date of mailing of the summons by certified mail, the Floodplain Administrator shall prosecute the owner for the violation of this Ordinance. Any person convicted of a violation of this Ordinance shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand (\$1000).

Chapter 224

GRAFFITI

§ 224-1. Intent.

§ 224-2. Definitions.

§ 224-3. Prohibited acts.

**§ 224-4. Accessibility to graffiti
implements.**

§ 224-5. Penalties.

§ 224-6. Graffiti as nuisance.

§ 224-7. Removal of graffiti.

§ 224-8. Lien.

**§ 224-9. Anti graffiti design
Consideration.**

§ 224-1. Intent.

The Mayor and Council intend, through the adoption of this Ordinance, to provide enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this Ordinance to conflict with any existing anti-graffiti state laws.

§ 224-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

GRAFFITI -- Any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the Hearing Officer as established in Section 7-D-J of this ordinance.

GRAFFITI IMPLEMENT -- An aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.

MINOR -- Any person under the age of 18 years old.

§ 224-3. Prohibited acts.

- A. Defacement. It shall be unlawful for any person to apply graffiti to any natural or man-made surface, on any Town-owned property, or without the permission of the owner or occupant, or on any non-Town-owned property, or upon private property when in the opinion of the Code Enforcement Officer, is inconsistent with the character of the neighborhood or is otherwise deemed a public nuisance by the Hearing Officer as established in Section 7-d-I of this ordinance.
- B. Possession of graffiti implements.
 - (1) By minors at or near school facilities.
 - (a) It shall be unlawful for a minor to possess any graffiti implements while on any school property, grounds, facilities, buildings, or structures, or within 1,000 feet of those specific locations or upon public property, or upon private property without the prior written consent of the owner or occupant of such private property.
 - (b) The provisions of this Section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers. Additionally, a minor who is an employee of a person who or which is a vender of a graffiti device may, in the course of their duties, possess such device for the lawful purpose of sale or transfer of the device while the minor is on the employer's place of business. The burden of proof in any prosecution for violation of this Section shall be upon the minor or student to establish the need to possess a broad-tipped marker or graffiti device.
 - (2) In designated public places. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the Town or while in or within 500 feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless otherwise authorized by the Town.

§ 224-4. Accessibility to graffiti implements.

- A. Furnishing to minors prohibited. It shall be unlawful for any person, other than the parent or legal guardian of such minor to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad-tipped marker, or paint stick to a minor without the written consent of the parents or guardian of the person.

B. Display and storage.

- (1) Every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol paint containers, paint sticks, or broad-tipped markers shall store the containers, sticks, or markers in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business.
- (2) In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks, or broad-tipped markers in an area as provided above, the establishment shall store the containers, sticks, and markers in an area not accessible to the public in the regular course of business without employee assistance.

C. Signage required.

- (1) Every person who operates a retail commercial establishment selling graffiti implements shall place a sign in clear public view at or near the display of such products starting: "Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid or device is guilty of a crime punishable by imprisonment of up to 60 days and/or a fine up to \$1,000."
- (2) Every person who operates a retail commercial establishment selling graffiti implements shall place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: "Selling spray paint, paint sticks, or broad-tipped markers to persons less than 18 years of age is against the law and punishable by a fine of \$250 to \$1,000."

§ 224-5. Penalties.

- A. Fines and imprisonment. Any person violating this Ordinance shall be punished by a fine of not less than \$250 for the first offense; not less than \$500 for the second offense; and not less than \$1,000 for each subsequent offense, or by imprisonment for a term not to exceed 60 days, or by a combination of both fine and imprisonment at the discretion of the court.
- B. Restitution. In addition to any punishment specified in this Section, the Court shall order any violator to make restitution to the victim or to the Town for damages, loss or cost of abatement caused directly or indirectly by the violator's offense in the amount or manner determined by the Court.
- C. Community service. In lieu of, or as part of, the penalties specified in this Section with the exception of Section 5(b) (Restitution), a minor or adult may be required to perform community service as described by the Court based on the following minimum requirements:

- (1) The minor or adult shall perform at least 30 hours of community service.
- (2) At least one parent or guardian of the minor shall be in attendance a minimum of 50% of the period of assigned community service.
- (3) The entire period of community service shall be performed under the supervision of a community service provider approved by the Council. Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, including community service that involves graffiti removal.

§ 224-6. Graffiti as nuisance.

- A. The existence of graffiti on public or private property in violation of this Ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Ordinance.
- B. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

§ 224-7. Removal of graffiti.

- A. Removal by the perpetrator. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within 24 hours after notice by the Town or private owner of the property involved. Any person applying graffiti shall be responsible for the removal or for the repayment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Ordinance.
- B. Property owner responsibility.
 - (1) If the perpetrator according to the Section above does not remove graffiti, graffiti shall be removed pursuant to the following provisions.
 - (2) It is unlawful for any person who is the owner or has primary responsibility for control of property or for repair or maintenance of property in the Town to permit property that is defaced with graffiti to remain defaced for a period of five days after service either in person or by first class mail to the owner or occupant of a notice of the defacement. The notice shall contain the following information:
 - (a) The street address and legal description of the property sufficient for identification of the property;

- (b) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;
- (c) A statement that the graffiti must be removed within five days after personal receipt of the mailing date of the notice and that if the graffiti is not abated within that time, the Town will declare the property to be a public nuisance, subject to the abatement procedures in Town Code and Delaware Law.
- (d) An information sheet identifying any graffiti removal assistance programs which may be available through the Town and/or private graffiti removal contractors.

C. Right of Town to abate.

- (1) Use of public funds. Whenever the Council becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the Council shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the Council, or their designee, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.
- (2) Right of entry on private property:
 - (a) Prior to entering upon private property or property owned by a public entity other than the Town for the purpose of graffiti removal, the Town shall attempt to secure the consent of the property owner or responsible party and a release of the Town from liability for property damage or personal injury.
 - (b) If the property owner or responsible party fails to remove the offending graffiti within the time specified by this ordinance, or if the Town has requested consent to remove or paint over the offering graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the Town and consistent with the terms of this Section, the Town shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.

D. Abatement and cost recovery proceedings.

- (1) Notice of due process hearing.

- (a) The Mayor shall appoint a member of the Council to serve as a Hearing Officer. The Hearing Officer shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different from the owner, not less than 48 hours notice of the Town's intent to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance.
 - (b) Notice shall be served by personal notice or telephonic conversation to the owner or current occupant of the property. If the owner of record cannot be contacted after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of seven days.
- (2) Determination of hearing officer. The determination of the Hearing Officer after the due process hearing shall be final.. If, after the due process hearing, regardless of the attendance of the Owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer shall give written notice in an abatement order that, unless the graffiti is removed within 72 hours, the Town shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Hearing Officer), or such other abatement thereof as the Hearing Officer determines appropriate, and shall provide the Owner and the responsible party thereafter with an accounting of the costs of the abatement effort on a full cost recovery basis.
- (3) Abatement efforts. Not sooner than the time specified in the order of the Hearing Officer, the Council, or the designee of the Council, shall implement the eradication order and shall provide an accounting to the Owner and the responsible party of the costs thereof:
- (4) Cost hearing.
 - (a) The Owner or responsible party may request a cost hearing before the Hearing Officer on the abatement accounting, and appropriate due process must be extended to the Owner or responsible party. If following the cost hearing or, if no hearing is requested, after the implementation of the abatement order, the Hearing Officer determines that all or a portion of the costs are appropriately chargeable to the abatement effort, the total amount set forth in the abatement accounting, or an amount thereof determined as appropriate by the Hearing Officer, shall be due and payable by the Owner or responsible party within 30 days.
 - (b) Any amount of abatement charges assessed by the Hearing Officer that are less than the total amount set forth in the abatement accounting shall be explained by written letter from the Hearing Officer to the Mayor and

Council.

§ 242-8. Lien.

As to such property where the responsible party is the property owner, if all or any portion of the assessed abatement charges remaining unpaid after 30 days, the portion thereof that remains unpaid shall constitute a lien on the property that was the subject of the abatement effort. The Mayor shall authorize the Town solicitor to proceed with any appropriate legal action(s) to accomplish the filing of a lien against the property.

§ 224-9. Anti graffiti design consideration.

- A. Design of potential graffiti-attracting surfaces. Whenever an applicant for design review approval, conditional use permit, special use permit, unclassified use permit, development agreement, or other form of development or building permit is received, and the proposed building of structures are visible from any public or quasi-public place, the Code Enforcement Office, well as the Planning Commission, shall discuss with the applicant the prevention of graffiti, and encourage the applicant to use anti graffiti techniques including, but not limited to, the following:
- (1) Use of a protective coating to provide for the effective and expeditious removal of graffiti;
 - (2) Use of additional lighting;
 - (3) Use of non-solid fencing;
 - (4) Use of landscaping designed to cover large expansive walls such as ivy or similar clinging vegetation; or
 - (5) Use of architectural design to break up long, continuous walls or solid areas.

Chapter 250

MANUFACTURED HOMES

ARTICLE I

Sales, Display and Storage

§ 250-1. Regulations.

ARTICLE I

Sales, Display and Storage

§ 250-1. Regulations.

Manufactured home sales, storage and display may take place in the Town of Frederica, provided that:

- A. The use is located on a lot of at least one acre of land.
- B. All manufactured home model units set up for sales display have front steps in place.
- C. All manufactured home model units set up for sales display, must be set on frame blocks.
- D. All areas used for storage be zoned for storage.
- E. All stored units be in usable condition.
- F. The storage area shall be separated from the display area by a continuous visual screen with a minimum height of eight feet. Such screening, consisting of a compact evergreen hedge or foliage screening or louvered fence or wall, shall be used. The entire area shall be similarly secured from contiguous residential District or area. No on-site manufactured home storage shall take place on the sales lot premises, excluding model units set up for sales display.

Chapter 259

NOISE

§ 259-1. Penalties.

§ 259-2. Prohibited noises generally.

§ 259-3. Enumerated unreasonably loud, disturbing and unnecessary noises.

§ 259-1. Penalties.

Any person or any group of individuals acting singly or in concert violating this division shall be guilty of a violation and shall forfeit and pay a fine of no less than \$25 nor more than \$50 and costs of prosecution, for the first offense, and for the second offense thereof shall be fined not less than \$50 nor more than \$100 and costs of prosecution.

§ 259-2. Prohibited noise generally.

- A. The making, creating or permitting of any unreasonably loud, disturbing and unnecessary noise within the corporate limits of the Town is hereby prohibited.
- B. The making, creating or permitting of any noise of such character, intensity or duration as to be detrimental to the life, health or welfare of an individual, or which either disturbs, injures or endangers the comfort, repose, peace or safety of any individual is hereby prohibited.

§ 259-3. Enumerated unreasonably loud, disturbing and unnecessary noises.

The following acts, among others, are declared to be unreasonably loud, disturbing and unnecessary noises in violation of this division, but such enumeration shall not be deemed to be exclusive, namely:

- A. Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal, so as to create any unreasonably loud or harsh sound, or the sounding of such device for any unnecessary and unreasonable period of time.
- B. Radios, phonographs, tape recorders, etc. The playing of any radio, phonograph, tape recorder or any musical instrument in such manner or with such volume, particularly

during hours between 11:00 p.m. and 7:00 a.m. as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel or other type of residence, or between the hours of 7:00 a.m. and 11:00 p.m. as to annoy or disturb the peace and quiet of pedestrians on the public streets and sidewalks of the Town.

- C. Pets. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.
- D. Use of vehicle. The use of any automobile, truck, motorcycle, motorbike, moped, motor scooter, dirt-bike, boat motors, or other self-propelled vehicle, whether licensed and registered to operate on the public highways of this state or not, so designed, loaded, out of repair or operated in such manner as to create unreasonably loud and unnecessary grating, grinding, rattling or other noise.
- E. Loudspeakers or amplifiers. The use of mechanical loudspeakers or amplifiers, whether stationary or mounted on a vehicle for advertising or other purposes; provided, that in the exercise of free speech, loudspeakers or amplifiers may be used for noncommercial purposes under the following conditions:
 - (1) It shall be unlawful to speak into a loudspeaker or amplifier within the corporate limits of the Town between the hours of 11:00 p.m. and 7:00 a.m.
 - (2) It shall be unlawful for any person to speak into a loudspeaker or amplifier within the corporate limits of the Town, when such loudspeaker or amplifier is so adjusted that the voice of the speaker is amplified to the extent that it is audible at a distance in excess of 150 feet from the person speaking.
- F. The operation of a generator between the hours of 10PM and 6AM except during power outages or emergencies.

Chapter 271

PARADES AND PUBLIC ENTERTAINMENT

§ 271-1. Parading and street meetings.

§ 271-3. Penalty.

§ 271-2. Public entertainment.

§ 271-1. Parading and street meetings.

It shall be unlawful for any association, corporation, lodge, band or other organization, or for any number of persons, for themselves or for others, to march or parade or hold a meeting, with or without music, singing, lights; banners or other paraphernalia, on any of the streets or sidewalks of the Town without first obtaining a permit in writing from the Town Clerk and approved by the Council.

§ 271-2. Public entertainment.

It shall be unlawful for any person, firm or corporation to exhibit or show for profit any sporting event, boxing match, minstrels or any similar form of advertised public entertainment without first obtaining a permit from the Town Clerk, approved by the Council, and paying the required fee therefor. The amount of the fee for such permit shall be governed by the type of event involved and the length of time for which the permit is to be issued.

§ 271-3. Penalty.

Any person, firm or corporation violating any provision of this Article shall, upon conviction, be fined not less than \$25 nor more than \$100 for each offense; and a separate offense shall be deemed committed on each day during, or on which a violation occurs or continue

Chapter 283

PEACE AND GOOD ORDER

§ 283-1. Disorderly conduct.

§ 283-10. Unlawful assemblages.

§ 283-2. Intoxication.

§ 283-11. Posting bills.

§ 283-3. Indecent conduct.

§ 283-12. Vagrancy.

§ 283-4. Assault and battery.

§ 283-13. Loitering.

§ 283-5. False alarms.

§ 283-14. Night prowling.

§ 283-6. Disturbing assemblages.

§ 283-15. Prostitution.

~~§ 283-7. Deadly weapons.~~

§ 283-16. Possession and consumption
of alcohol by minors.

§ 283-8. Discharge of firearms.

§ 283-17. Penalty.

§ 283-9. Possession and discharge of
fireworks.

§ 283-1. Disorderly conduct.

It shall be unlawful for any person to be guilty of disorderly conduct or of any conduct tending toward a breach of the peace. The causing or making of any unnecessary loud noise, or shouting or yelling, or using profane language in any street, alley or other public place within the Town shall be considered disorderly conduct.

§ 283-2. Intoxication.

It shall be unlawful for any person to be in an intoxicated condition in or on any street, alley or other public place within the Town.

§ 283-3. Indecent conduct.

It shall be unlawful for any person to commit any indecent, lewd or immoral act, or to appear in any public place in clothes properly belonging to the opposite sex, or not properly or decently

garbed.

§ 283-4. Assault and battery.

It shall be unlawful for any person to knowingly start a fight, to fight, or to commit assault and battery within the limits of the Town.

§ 283-5. False alarms.

It shall be unlawful for any person to knowingly start or spread any false alarm of fire in the Town.

§ 283-6. Disturbing assemblages.

It shall be unlawful for any person to disturb any lawful assemblage or gathering in the Town.

~~§ 283-7. Deadly weapons.~~

§ 283-8. Discharge of firearms.

It shall be unlawful for any person to discharge any firearms, air guns or pellet guns in the Town, provided that this Section shall not be construed to prohibit any Officer of the law to discharge a firearm in the performance of his duty; nor to any citizen to discharge a firearm when lawfully defending his person or property.

§ 283-9. Possession and discharge of fireworks.

It shall be unlawful to discharge, fire, set off or ignite any fireworks of any type whatsoever within the limits of the Town. It shall be unlawful to sell, or offer to sell, or to possess for the purpose of sale or otherwise, any fireworks of any type within the limits of the Town. Provided, however, that this Section shall not apply to any person granted permission by the Council to possess or discharge fireworks pursuant to a supervised public display of such fireworks.

§ 283-10. Unlawful assemblages.

It shall be unlawful to collect, gather or be a member of any disorderly crowd, or any crowd gathered together for any unlawful purpose.

§ 283-11. Posting bills.

It shall be unlawful for any person, firm or corporation to post any bills for advertising on any public property without the authority of the Council; and it shall be unlawful to post any bill or advertisement on any property without the express consent of the owner thereof.

§ 283-12. Vagrancy.

It shall be unlawful for mendicants or vagrants to frequent any depot or theater, street, alley, sidewalk, park or other place publicly frequented in the Town. Any person found sleeping in any such place; and who has not established domicile or residence, shall be considered to be a vagrant.

§ 283-13. Loitering.

It shall be unlawful for any person or persons to stand, idle or loiter on the corners, pavements or sidewalks or crossings of the Town. It shall be unlawful for any person or persons to stand in a group or congregated with others on any pavement, sidewalk, crossing or corner, or in any of the streets, squares, lanes or alleys or at any doorstep so as to obstruct or hinder the free and convenient passage of persons walking, riding or driving over or along any such pavement, sidewalk, street, square, lane or alley, or to the annoyance of passers-by, or the occupants of adjacent premises. It shall be unlawful for any person or persons so standing, idling or loitering to fail to make way, remove or pass on after reasonable request to do so is made by any person.

§ 283-14. Night prowling.

- A. It is unlawful for anyone to loaf, prowl, or congregate on the streets or other public places or private property without permission of owner in the Town of Frederica between the hours of 12:00 p.m. and 6:00 a.m., except that they be doing so in the normal pursuits of their livelihood. The provisions of this ordinance shall also extend to prowling by motor vehicle or other conveyance.
- B. Violation of the above ordinance shall be considered a violation and shall be punishable by a fine of not less than \$25 and not more than \$50.

§ 283-15. Prostitution.

- A. It shall be unlawful to keep, set up, maintain or operate any place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation.
- B. It shall be unlawful to occupy any place, structure, building or conveyance for the

purpose of prostitution, lewdness or assignation, or to permit any place, structure, building or conveyance owned by any person, firm or corporation, or under his or its control to be used for the purpose of prostitution, lewdness or assignation, with knowledge or reasonable cause to know that the same is, or is to be, used for such purpose.

- C. It shall be unlawful to receive or offer or to agree to receive any person into any place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation, or to permit any person to remain there for such purpose.
- D. It shall be unlawful to direct, take or transport, or to offer or agree to take or transport any person to any place, structure or building, or to any other person with knowledge or reasonable cause to know, that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation.
- E. It shall be unlawful to procure or solicit, or to offer to procure or solicit for the purpose of prostitution, lewdness or assignation.
- F. It shall be unlawful to reside in, enter or remain in any place, structure or building, or to enter or remain in any conveyance for the purpose of prostitution, lewdness or assignation.
- G. It shall be unlawful to engage in prostitution, lewdness or assignation by any means whatsoever.

§ 283-16. Possession and consumption of alcohol by minors.

It shall be unlawful for any person under the age of 21 years to consume, to have on or about his person, or to have in his possession any alcoholic malt or spirituous beverage while in or upon the streets or other public places within the limits of the Town. Provided, however, that this shall not apply to either the possession or consumption of alcoholic or spirituous beverages when consumed as an integral part of sacramental rites performed in the course of religious services conducted in a church building or other house of worship, or where such consumption is of medicinal purposes pursuant to the direction of prescription of a duly licensed physician.

§ 283-17. Penalty.

Any person, firm or corporation violating any provision of this Article shall, upon conviction, be fined in a sum not less than \$25 and not exceeding \$100, and a separate offense shall be deemed committed of each day during, or on which a violation occurs or continues.

Chapter 288

PEDDLING AND SOLICITING

ARTICLE I Peddlers

§ 288-1. Definition

§ 288-2. License required.

§ 288-3. Applications.

§ 288-4. Fee.

§ 288-5. Street peddlers.

§ 288-6. Fraud.

§ 288-7. Penalty

ARTICLE II Canvassers and Solicitors

§ 288-8. Definitions

§ 288-9. Registration required

§ 288-10. Fee.

§ 288-11. Certificate.

§ 288-12. Exceptions.

§ 288-13. Revocation.

§ 288-14. Penalty.

ARTICLE I Peddlers

§ 288-1. Definition.

For the purpose of this article:

PEDDLER -- One who sells tangible commodities from house to house, store to store, or on the streets or in any public place; his sales are not made from one established spot excepting where they are made in a street or other public place and he makes delivery at the time of the sale. Whether or not he collects at the same time is immaterial. Provided, however, that this shall not include accepted salesmen who operate daily or weekly on a regularly scheduled route, local farmers selling produce, or local citizens who sell from a regularly established location.

§ 288-2. License required.

It shall be unlawful for any person, firm, or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor.

§ 288-3. Applications.

Applications for such licenses shall be made to the Clerk and shall state thereon the description and number of vehicles, if any, intended to be operated, the kind of merchandise to be peddled, and the permanent address of the peddler.

§ 288-4. Fee.

The fee for such a license shall be stated in Chapter 180, and such license shall be good for a period of 24 hours only.

§ 288-5. Street peddlers.

No peddler shall apply his vocation on any street, sidewalk, park, parkway, or in any other public place unless his peddler's license specifies that peddling in such public places is permitted thereunder.

§ 288-6. Fraud.

Any licensed peddler or hawker who shall be guilty of any fraud, cheating, or misrepresentation, whether through himself or through an employee, while acting as a peddler in the Town, or who shall barter, sell, or peddle any goods or merchandise or wares other than those specified in his application for license shall be deemed guilty of a violation of this Article.

§ 288-7. Penalty.

Any person, firm, or corporation violating any provision of this Article shall, upon conviction, be fined not less than \$25 nor more than \$100 for each offense and a separate offense shall be deemed committed on each day during, or on which a violation occurs or continues.

ARTICLE II

Canvassers and Solicitors

§ 288-8. Definitions.

For the purpose of this article:

CANVASSER OR SOLICITOR -- A person who either door to door or from public places and not from an established place on private premises takes orders for future deliveries of tangible goods or intangible services, or seeks subscriptions or donations, or contacts persons for the purpose of seeking information, giving them literature or verbal information.

§ 288-9. Registration required.

It shall be unlawful for any person to engage in the activity of canvassing or soliciting as defined in § 288-8 without having first registered at the Office of the Clerk. The registrant shall give his complete identification, his signature, the name of this employer, the nature of the products or services in which he is interested, the names of the manufacturers of said products, or of the organization which he is representing, and the proposed method of operation in the Town. All activity constituting canvassing or soliciting shall only take place between the hours of 9:00 a.m. and 4:00 p.m. It shall be unlawful for any person who is canvassing or soliciting to refuse to leave private premises when requested to do so by the occupant.

§ 288-10. Fee.

Each registrant shall pay to the Clerk a registration fee stated in Chapter 180, and such registration shall be good for a period of 24 hours only.

§ 288-11. Certificate.

Each applicant who pays the fee provided for herein, shall be furnished a certificate indicating that he or she has registered, and showing the dates covered by such registration. Each person shall at all times while soliciting or canvassing in the Town carry upon his person the Registration Certificate and the same shall be exhibited by such registrant whenever he is required to do so by any Police Officer or by any person solicited.

§ 288-12. Exceptions.

The provisions of this Article shall not apply to officers or employees of the Town, County, State, or Federal Government, or any subdivision thereof, when on official business. Nothing in this article shall prohibit a person from canvassing or soliciting at a private house or on privately owned premises at any time if the owner of such place has given his prior consent.

§ 288-13. Revocation.

Any registration may be revoked by the Mayor because of any violation by the registrant of this ordinance, or of any other ordinance of the Town or any State or Federal law.

§ 288-14. Penalty.

Any person, firm, or corporation violating any of the provisions of this ordinance shall, upon conviction, be fined not less than \$25 nor more than \$100 for each offense and a separate offense shall be deemed committed upon each day during, or on which a violation occurs or continues.

Chapter 292

PERMITS AND APPROVALS

ARTICLE I

Denial of Noncompliance

§ 292-1. Denial of permits or approvals for failure to comply with requirements for payments, actions, or filings.

§ 292-2. Appeal, hearing.

ARTICLE I

Denial for Noncompliance

§ 292-1. Denial of permits or approvals for failure to comply with requirements for payments, actions, or filings.

(a) *Eligibility to receive town utilities or services.* No person, artificial entity, or owner of a $\frac{1}{4}$ or greater interest in that artificial entity shall be eligible to receive any town services, utilities, permits, licenses, or approvals if that person, artificial entity, or owner of a one-quarter or greater interest in that artificial entity owes outstanding payments to the town; or if that person, artificial entity, or the owner of a $\frac{1}{4}$ or greater interest in that artificial entity is responsible for documented violations of the any Town ordinance that have remained unresolved for more than 45 days. If the party, artificial entity, or owner of a $\frac{1}{4}$ or greater interest in that artificial entity requesting city approval is current on some but not all obligations owed to the city, the request shall be denied until such time as the person, artificial entity, or owner of a one-half or greater interest in that artificial entity is current and in compliance with all city obligations.

(b) *Obligations which must be current.* Applicants for city services, utilities, permits, licenses, or approvals shall be current on all of the following obligations to the city, including interest, penalties, court costs, and/or attorney's fees, if applicable, prior to receiving such approvals:

- (1) Property taxes.
- (2) Applicable Delaware realty transfer taxes.

- (3) Water connection/disconnection, front footage and/or usage charges.
- (4) Trash fees.
- (5) Application fees.
- (6) Permit fees, including building permits, building code and inspection/reinspection fees and landlord license fees.
- (7) Vacant building fees.
- (8) Inspection fees.
- (9) Charges for the costs of razing or demolition of buildings done through public expenditure.
- (10) Charges for duly authorized improvements or maintenance to the exteriors of buildings or property done through public expenditure.
- (11) Assessments for the installation of sewer lines, water mains, sidewalks, and curbing.
- (12) Charges for the costs of removing weeds, grasses, refuse, rubbish, trash, or other waste material done through public expenditure.
- (13) Miscellaneous charges.

(c) Responsibility of town personnel.

- (1) The administrative agency to which a request has been submitted shall have the responsibility to make a reasonable effort to determine whether there are outstanding payments or outstanding documented violations of the any Town ordinance.
- (2) The appropriate administrative agency shall notify an applicant that the request cannot be processed because of an outstanding payment or an outstanding documented violation. Said notice shall be in writing and shall be sent within ten working days of receipt of the request.

(d) *Exception.* Notwithstanding the provisions of this section, the building inspector, with the concurrence of the mayor, may issue permits and approvals for work that is necessary to correct violations associated with buildings condemned pursuant to the International Property Maintenance Code.

(e) Any applicant for any town services, utilities, permits, licenses, or approvals that is an

artificial entity shall be required to identify all persons or entities that own a ten percent (10%) or greater interest in the entity.

§ 292-2. Appeal, hearing.

Appeal to mayor and council. Any applicant, person, corporation, or other entity or any owner or member of that corporation or other entity requesting such municipal services, utilities, permits, licenses, or approvals who receives the aforesaid written denial may appeal that denial to the mayor and council within 20 calendar days of such denial. The mayor and council shall thereafter hold a hearing at which said applicant shall be permitted to give evidence that such payment has been made or that a required action has been carried out, or otherwise show that such denial is based on incorrect information or is not lawful as to that applicant.

Chapter 297

PORTABLE STORAGE CONTAINERS

§ 297-1. Permit Required; fee.

§ 297-6. Procedure for Renewal of Permit.

§ 297-2. Enforcement.

§ 297-7. Collection of Fees.

§ 297-3. Powers and duties of Mayor and Council.

§ 297-8. Display.

§ 297-4. Permit Application.

§ 297-9. Placement of portable storage units.

§ 297-5. Issuance, Expiration and Form.

§ 297-10. Penalties.

§ 297-1. Permit required; fee.

It shall be unlawful for a portable storage container to be placed or used in the Town without a permit and payment of a fee of twenty-five dollars (\$25). Only one portable storage unit shall be placed on a parcel. The lessee of the portable storage container shall be responsible for obtaining the permit.

§ 297-2. Enforcement.

The Mayor and Council, or its designee, shall, unless specifically provided otherwise, supervise the enforcement of this ordinance and have authority to grant, deny and revoke permit.

§ 297-3. Powers and duties of Mayor and Council.

The Mayor and Council, or its designee, shall:

- (1) Collect all permit fees, issue permits and maintain all permit -records in the name of the town.
- (2) Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this ordinance.
- (3) Adopt all forms and prescribe the information to be given therein as to character and other relevant matter for all necessary papers.

- (4) Notify any applicant of the acceptance or rejection of his application and, upon the refusal of any permit or permit and at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.

§ 297-4. Permit application.

(a) Every applicant for a permit under the provisions of this ordinance shall make an application for such permit upon forms provided by the Mayor and Council, or its designee, which shall include the following information:

- (1) The name and address of the applicant and the address where the portable storage container(s) will be placed ;
- (2) A statement that the applicant has complied and will continue to comply with all the ordinances of the town.

(3) Such other information as the Mayor and Council, or its designee, deems necessary.

(b) The proper permit fee shall accompany the application .

§ 297-5. Issuance, expiration and form.

Upon proper application and payment of the prescribed fee a permit shall be issued to each such applicant, signed by the Mayor, or his/her designee. Each such permit shall be valid and effective a period of sixty (60) days. A record of all permits issued and permit fees paid shall be maintained at the town hall.

§ 297-6. Procedure for renewal of permit.

(a) The applicant for the renewal of a permit shall submit an application for that permit to the Mayor and Council, or its designee, along with the required fee.

(b) The Mayor and Council, or its designee, may grant one sixty (60) day extension of an initial permit. The fee for the renewal of the permit shall be twenty-five dollars (\$25).

(c) Any further extensions of the permit shall be applied for as follows:

- (i) Applicant must submit application for further extension of the permit every month after the initial 120 days.
- (ii) Application for further extension shall be made every month and shall include the application for the permit, a separate written explanation of why applicant needs the storage unit and length of time the unit will be needed .
- (iii) Applicant shall pay a fee of fifty dollars (\$50) per month to be submitted with the application.

(iv) Applicant shall appear before Town Council regarding further extension of said storage unit..

§297-7. Collection of fees.

- (a) The amount of any unpaid fee, the payment of which is required pursuant to this ordinance, shall constitute a debt due the town.
- (b) The city solicitor shall, at the direction of the Mayor, institute civil suit in the name of the town to recover any unpaid fee.
- (c) No civil judgment or any act by the city solicitor, the Mayor and Council, or its designee, or the violating permit holder shall bar or prevent a criminal prosecution for each violation of this ordinance.

§ 297-8. Display.

The permit must be conspicuously posted on the portable storage container in such a manner as to protect the permit from inclement weather while maintaining readability.

§ 297-9. Placement of portable storage units.

- (a) It shall be unlawful to place a portable storage unit in the front yard (as defined by the Land Development Ordinance) of any parcel in any zoning district in the town.
- (b) It shall be unlawful for portable storage containers to obstruct any roadway or sidewalk.
- (c) Portable storage units shall be placed in accordance with Table 8-3 of the Frederica Land Development Ordinance.

§ 297-10. Penalties.

- (a) Any person violating this Ordinance shall be punished by a fine of not more than \$100 for each offense.
- (b) Each day that a violation occurs shall be a separate offense.

Chapter 305

PROPERTY MAINTENANCE

ARTICLE I Adoption of Standards

§ 305-1. Adoption of International Code.

ARTICLE II Weeds and Trash

§ 305-2. Definitions.

§ 305-3. Prohibited weed growth.

§ 305-4. Abatement by Town; fees.

§ 305-5. Liens.

§ 305-6. Prohibited deposits of trash.

§ 305-7. Solid waste collection.

§ 305-8. Burning and burying of trash prohibited.

§ 305-9. Solid waste from outside Town prohibited.

§ 305-10. Abatement by Town.

§ 305-11. Liens.

§ 305-12. Violations and penalties.

§ 305-13. Separate offenses.

§ 305-14. Fine schedule.

§ 305-15. Liens for unpaid fines.

ARTICLE III External Placement of Interior Furniture

§ 305-16. Prohibited conduct; definitions.

§ 305-17. Abatement.

§ 305-18. Liens.

§ 305-19. Violations and penalties.

§ 305-20. Separate offenses.

§ 305-21. Fine schedule.

§ 305-22. Liens for unpaid fines.

ARTICLE I Adoption of Standards

§ 305-1. Adoption of Property Maintenance Code

The Town of Frederica hereby adopts the current edition of the property maintenance codes as adopted by the Kent County Levy Court as the property maintenance standards within the corporate limits of the Town of Frederica. The members of Town Council shall serve as the board of appeals.

ARTICLE II

Weeds and Trash

§ 305-2. Definitions.

As used in this ordinance, the term *weeds* shall mean grass, weeds, bushes and any other vegetation other than trees, ornamental shrubbery, flowers and garden vegetables that are properly tended.

§ 305-3. Prohibited weed growth.

It shall be unlawful and a nuisance for the owner, occupant or tenant of any premises, or any agent caring for or in charge of the premises to permit any weeds, underbrush, deleterious or unhealthful growths or other noxious matter to grow to a height of six (6) inches or more.

§ 305-4. Abatement by Town; fees.

In the event that any owner, occupant or tenant of any premises, or any agent caring for or in charge of the premises within the city shall permit any grass, weeds, underbrush, deleterious or unhealthful growths or other noxious matter to grow to a height of six (6) inches or more as prohibited by this ordinance, then the Code Official shall issue a summons showing a violation of this Article, said summons to be served personally or by certified mail upon the owner, occupant, or tenant of the premises, or any agent caring for or in charge of the premises. The summons shall cite the violation of this Article and shall be accompanied by a letter or a copy of the relevant provisions of the Article stating what corrective action must be taken and shall state the consequences for failure to take such corrective action. The fine shall be as stated in §305-14. In addition, if the violation is not corrected within three (3) days from the date of personal service of the summons or within seven (7) days from the date of mailing of the summons by certified mail, then the Town at the direction of the Code Official may remove the weeds, grass, underbrush, deleterious or other unhealthful growths or other noxious matter growing to a height in excess of six (6) inches or more in violation of this Article and charge the responsible person seventy-five dollars (\$75.00) per hour for such work that must be done to render the property in compliance with this Ordinance. When the owner, occupant, or tenant of any premises, or any agent caring for or in charge of the premises has received summonses and fails to take corrective action, and the Town has corrected the violation in accordance with this section, then no further notification shall be necessary for the Town to take any further corrective action on any subsequent violations within the following twelve-month period starting from the date of the first corrective action by the Town.

§ 305-5. Liens.

In the event that the owner, occupant, tenant or other agent caring for or in charge of the premises is deemed to be in violation of this Article and in the event that the violation is corrected in compliance with the preceding section and if the charges assessed by the Town for correcting said deficiency are not paid, then the Town, after having corrected the deficiency and

violation, shall place its charges and expenses as specified in the municipal lien docket as a lien against said property and in the Lien Docket maintained by the Prothonotary; and the Town solicitor shall be directed to enforce said lien or to collect the charges imposed by the Town by any other means that he may deem desirable and most advantageous.

§ 305-6. Prohibited deposits of trash.

It shall be unlawful and a nuisance for the owner, occupant or tenant of any premises, or any agent caring for or in charge of the premises to permit refuse, rubbish, trash or other waste material to be placed or to accumulate upon land or improved premises or upon any street, alley, sidewalk, or public way within the Town limits so as to be detrimental, in the opinion of the Code Official, to adjoining property or the health or safety of any persons.

§ 305-7. Solid waste collection.

The owner, occupant or tenant of any premises, or any agent caring for or in charge of the premises shall adhere to the following rules with regard to refuse, rubbish, trash or other waste materials:

- a. Such materials shall be ready for collection by 6:30 pm on each Sunday;
- b. All containers must have lids securely affixed and all bags must be securely tied;
- c. Containers and/or bags may not be contained within a fenced or boxed-in area;
- d. Containers must be removed from the curb by 7:00 pm of the collection day;
- e. No items such as large appliances, board, or iron shall be placed for collection without notifying or making arrangements with the trash removal service provider.
- f. Recycling containers shall not be used as trash cans.
- g. When not at the curb for collection, trash containers shall be stored as stated in the Land Development Ordinance.

§ 305-8. Burning and burying of trash prohibited.

No person, firms, corporation or other entity shall bury or burn any refuse, rubbish, trash or other waste material within the Town limits without first obtaining a permit from the Council and in no event shall any act of burying or burning such materials be done in a manner which creates a nuisance detrimental to adjoining property or to the health or safety of any person.

§ 305-9. Solid waste from outside Town prohibited.

No person, firms, corporation or other entity shall bring into the Town and deposit upon any street, alley, public way, or private property any refuse, rubbish, trash or other waste material not generated by a residence or business located within the Town.

§ 305-10. Abatement by Town.

In the event that any owner, occupant or tenant of any premises, or any agent caring for or in

charge of the premises within the Town shall permit refuse, rubbish, trash or other waste materials, including but not limited to unregistered or inoperable motorized vehicles, unregistered or inoperable recreational vehicles, unregistered or inoperable boats, unregistered or inoperable trailers, motors, appliances, building materials, construction debris or similar items to be placed or to accumulate upon land, premises of such property or improved premises or upon any street, alley, sidewalk, or public right-of-way within the Town limits, then the Code Official shall issue a summons showing a violation of this Ordinance, said summons to be served personally or by certified mail upon the owner, occupant, or tenant of the premises, or any agent caring for or in charge of the premises. The summons shall cite the violation of this Article or any national or local codes as adopted by the Town and shall be accompanied by a letter or a copy of the relevant provisions of the Article or any national or local codes as adopted by the Town stating what corrective action must be taken and shall state the consequences for failure to take such corrective action. If the violation is not corrected or abated within three (3) days from the date of personal service of the summons or within seven (7) days from the date of the mailing of the summons by certified mail, then the Town at the direction of the Code Official shall issue citations in accordance with the Town of Frederica Code of Ordinances and, in addition, shall have the said violation or violations corrected or abated by Town staff or contractor, which abatement shall include but not be limited to removing all refuse, rubbish, trash, unregistered or inoperable motorized vehicles, unregistered or inoperable recreational vehicles, unregistered or inoperable boats, unregistered or inoperable trailers, motors, appliances, building materials, construction debris or similar items and waste materials as so placed or so accumulated in violation of this Article or any national or local codes as adopted by the Town and charge the responsible person all costs associated with the correction or abatements of the said violation or violation including but not limited to all administrative costs, contractor's costs, court and attorneys' fees. The Town staff or contractor will enter or access the said property where the violation or violations exist to correct or abate the violation or violations. If at any time during the correction or abatement of the violation or violations there is an obstruction not allowing access onto the said premises where the violation or violations exist, then the obstruction shall be removed at the property owner's expense and if the obstruction is a motor vehicle than it shall be towed and stored at the property owner's expense. When the owner, occupant, or tenant of any premises, or any agent caring for or in charge of the premises has received summonses and fails to take corrective action, and the Town has corrected the violation in accordance with this section, then no further notification shall be necessary for the Town to take further corrective action on any subsequent violations within the following twelve (12) month period starting from the date of the first corrective action by the Town.

§ 305-11. Liens.

In the event that the owner, occupant, tenant or other agent caring for or in charge of the premises is deemed to be in violation of this Article and in the event that the violation is corrected in compliance with the preceding section and if the charges assessed by the Town for correcting said deficiency are not paid, then the Town, after having corrected the deficiency and violation, shall place its charges and expenses as specified in the municipal lien docket as a lien against said property and in the Lien Docket maintained by the Prothonotary; and the Town solicitor shall be directed to enforce said lien or to collect the charges imposed by the city by any other means that he may deem desirable and most advantageous.

§ 305-12. Violations and penalties.

Any person convicted of a violation of this Article, regardless of corrective actions taken, shall be punished for that violation by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any such fine shall be in addition to any charges or assessments imposed upon the violator pursuant to this Article. All fines imposed shall be in accordance with the minimum fine schedule set out herein.

§ 305-13. Separate offenses.

Every day that a violation of this Article continues shall be considered a separate offense, for which the violator may be tried and convicted without necessity of further notice.

§ 305-14. Fine schedule.

Any fine assessed pursuant to this Article shall be no less than the minimum amount set out in the following schedule:

First offense \$ 25.00
Second offense \$ 50.00
Third and subsequent offenses . . . \$100.00

In determining the applicable minimum fine, an offense shall be considered a recurring offense only if the defendant has previously pleaded, or been found guilty of causing or permitting the same nuisance at the same location within the past eighteen (18) months, or for everyday that the violation of this Article continues.

§ 305-15. Liens for unpaid fines.

Any fines imposed pursuant to this Article which remain unpaid shall be placed by the Town as specified in the municipal lien docket as a lien against the property on which the violation occurred, and the procedures for enforcement or collection of said lien shall be as set forth herein.

ARTICLE III
External Placement Of Interior Furniture

§305-16. Prohibited conduct; definitions.

The owner and/or tenant of a residential premises shall not cause or allow the external placement of any upholstered furniture, including mattresses, not designed or manufactured for exterior use. "External placement" and "exterior use" shall include, but not be limited to, unenclosed porches or decks.

§ 305-17. Abatement.

In the event that any owner, occupant, or tenant of any premises, or any agent caring for or in charge of the premises within the Town shall permit the external placement of any upholstered furniture, including mattresses, not designated or manufactured for exterior use, then the Mayor or his authorized agents shall issue a summons showing a violation of this Ordinance, said summons to be served personally or by certified mail upon the owner, occupant, or tenant of the premises, or any agent caring for or in charge of the premises. The summons shall cite the violation of this Ordinance and shall be accompanied by a letter or a copy of the relevant provisions of the Ordinance stating what corrective action must be taken and shall state the consequences for failure to take such corrective action. If the violation is not corrected within three days from the date of personal service of the summons or within seven days from the date of mailing of the summons by certified mail, then the Town at the direction of the Code Enforcement may remove such furniture placed in violation of this Ordinance and charge the responsible person \$50 per hour for such work that must be done to render the property in compliance with this Ordinance. When the owner, occupant, or tenant of any premises, or any agent caring for or in charge of the premises has received summonses and fails to take corrective action, and the Town has corrected the violation in accordance with this section, then no further notification shall be necessary for the Town to take any further corrective action on any subsequent violations within the following twelve-month period starting from the date of the first corrective action by the Town.

§ 305-18. Liens.

In the event that the owner, occupant, tenant or other agent caring for or in charge of the premises is deemed to be in violation of this Ordinance and in the event that the violation is corrected in compliance with the preceding paragraph and if the charges assessed by the Town for correcting said deficiency are not paid, then the Town, after having corrected the deficiency and violation, shall place its charges and expenses as specified in the municipal lien docket as a lien against said property and in the Lien Docket maintained by the Prothonotary; and the Town solicitor shall be directed to enforce said lien or to collect the charges imposed by the Town by any other means that he may deem desirable and most advantageous.

§ 305-19. Violations and penalties.

Any person convicted of a violation of this Ordinance, regardless of corrective actions taken, shall be punished for that violation by a fine of not less than \$25 nor more than \$100. Any such fine shall be in addition to any charges or assessments imposed upon the violator pursuant to this Ordinance. All fines imposed shall be in accordance with the minimum fine schedule set out herein.

§ 305-20. Separate offenses.

Every day that a violation of this Ordinance continues shall be considered a separate offense, for which the violator may be tried and convicted without necessity of further notice.

§ 305-21. Fine schedule.

- A. Any fine assessed pursuant to this Ordinance shall be no less than the minimum amount set out in the following schedule:
 - (1) First offense: \$25.
 - (2) Second offense: \$50.
 - (3) Third and subsequent offenses: \$100.
- B. In determining the applicable minimum fine, an offense shall be considered a recurring offense only if the defendant has previously pleaded, or been found guilty of causing or permitting the same nuisance at the same location within the past 18 months, or for everyday that the violation of this Ordinance continues.

§ 305-22. Liens for unpaid fines.

Any fines imposed pursuant to this Ordinance which remain unpaid shall be placed by the Town as specified in the municipal lien docket as a lien against the property on which the violation occurred, and the procedures for enforcement or collection of said lien shall be as set forth herein.

Chapter 314

RENTAL PROPERTIES

ARTICLE I

Rental Unit Licenses

§ 314-1. License required; fee.

§ 314-2. Enforcement.

**§ 314-3. Powers and duties of Town
Code Enforcement.**

**§ 314-4. Receipt for payment of license
fees.**

§ 314-5. License application.

§ 314-6. Issuance, expiration and form.

§ 314-7. Denial of license.

**§ 314-8. Penalty for late payment of
license fee.**

§ 314-9. Collection of fees.

**§ 314-10. Separate license for each rental
unit.**

§ 314-11. Duplicate licenses.

**§ 314-12. Liability of corporate officers,
partnerships, etc.**

**§ 314-13. Procedure for renewal of
licenses.**

§ 314-14. Transfer of license.

§ 314-15. Display.

**§ 314-16. General standards of conduct
by licensee.**

§ 314-17. Inspections.

§ 314-18. Provisional orders.

§ 314-19. Final order.

§ 314-20. Summary action.

§ 314-21. Appeals.

§ 314-22. Definitions.

ARTICLE I

Rental Unit Licenses

§ 314-1. License required; fee.

A. Each person, partnership, corporation, or other artificial entity who rents or offers to rent any apartment, house, or other dwelling unit shall obtain a license and pay an annual license fee of \$75.00 for each such apartment, house, or dwelling unit.

B. No person, partnership, corporation, or other artificial entity shall rent or offer to rent any

apartment, house, or other dwelling unit within the Town without a license and paying the annual license fee.

- C. The proper license fee shall accompany the application.
- D. All persons applying for a rental dwelling permit, and all persons administering, managing or controlling the operation of any rental dwelling unit must attend a crime free housing seminar, approved by the Frederica Police Department, within 12 months of issuance of the permit. Thereafter, each rental permit holder and each rental property manager must attend a refresher seminar every three years. Documentation shall be submitted to the Town Clerk and kept on file within the department.
- E. All residential leases shall include a crime free lease addendum, signed by the property owner and tenant, in the following form:
In addition to all other terms of the lease, landlord and tenant agree as follows:
 - (a) The tenant, any member of the tenant's household, any guest or any other person associated with the tenant on or near the leased premises:
 - (1) Shall not engage in criminal activity, including drug-related criminal activity, on or near the leased premises.
"Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession of any illegal or controlled substance defined by Title 16.
 - (2) Shall not engage in any act intended to facilitate criminal activity.
 - (3) Shall not permit the dwelling unit to be used for or to facilitate any criminal activity.
 - (b) Any activity prohibited by this agreement shall constitute a substantial violation of the lease, material noncompliance with the lease, and grounds for termination of tenancy and eviction.
- F. The Town shall provide a template crime free lease addendum.
- G. A copy of the signed crime free lease addendum shall be submitted to the Town prior to establishment of utility services to any residential property.

§ 314-2. Enforcement.

- A. The Council shall, unless specifically provided otherwise, supervise the enforcement of this ordinance and have authority to grant, deny, and revoke license.
- B. The following actions may be grounds for suspension of the rental permits in accordance with this Chapter:
 - (1) the failure of the property owner to initiate and prosecute with effect eviction proceedings following notification by the Town that the terms of the crime free housing lease addendum have been violated, or

- (2) the failure of the property owner and/or property manager to attend the required crime free housing seminar.

§ 314-3. Powers and duties of Code Enforcement.

The Council shall:

- A. Collect all license fees, issue licenses, and maintain all license records in the name of the Town to all qualified persons.
- B. Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this ordinance.
- C. Adopt all forms and prescribe the information to be given therein as to character and other relevant matter for all necessary papers.
- D. Require applicants to submit all affidavits and oaths necessary to the administration of this ordinance.
- E. Submit all applications, in a proper case, to interested Town officials for their endorsements thereon as to compliance by the applicant with all Town ordinances which they have the duty of enforcing.
- F. Investigate and determine the eligibility of any applicant for a license pursuant to this ordinance, if required.
- G. Notify any applicant of the acceptance or rejection of his application and, upon the refusal of any license or permit and at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.
- H. Keep all information furnished or secured under the authority of this ordinance in strict confidence. The information shall not be subject to public inspection and shall be kept so that its contents shall not become known except to the persons charged with the administration of this ordinance.

§ 314-4. Receipt for payment of license fees.

Whenever a license cannot be issued at the time the application for it is made, the Town Clerk shall issue a receipt to the applicant for the money paid in advance. The receipt shall not be construed as the approval of the Council for the issuance of a license, nor shall it entitle or authorize the applicant to rent or offer to rent any apartment, house, or other dwelling unit contrary to the provisions of this ordinance.

§ 314-5. License application.

- A. Every applicant for a license under the provisions of this ordinance shall make an application for such license upon forms provided by the town clerk which shall include the following information:
 - (1) The name and business address of the licensee;
 - (2) A statement that the applicant has complied and will continue to comply with all the ordinances of the Town. The application shall be verified by the oath or affirmation of the individual licensee or of one member of a partnership, firm, or association, or of the president, secretary, or a director of a corporation applying for a license.
 - (3) Such other information as the Town Council deems necessary.
- B. Such form shall include an affidavit which shall be sworn to by the applicant before a notary public of the state.
- C. The proper license fee shall accompany the application.

§ 314-6. Issuance, expiration, and form.

Upon proper application and payment of the prescribed fee, a license shall be issued to each such applicant, signed by the Mayor, and the Clerk. Each such license shall be valid and effective from the first day of July of each year or the date of issuance to the last day of June of the next year. A record of all licenses issued and licensee fees paid shall be maintained at the Town Hall. Each such license shall be upon a form provided by the Clerk which shall set forth the following information:

- A. The name and business address of the licensee;
- B. The date of issuance of the license; Jan 1 - Dec 31
- C. The amount of the license fee paid to the Town.

§ 314-7. Denial of license.

- A. The Council shall, upon disapproving any application submitted under the provisions of this ordinance, refund all fees paid in advance by the applicant pursuant to the application, less a reasonable application processing charge, provided the applicant is not otherwise indebted to the Town, in which case the fees shall be applied to the Town-owned debts.

- B. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, the applicant shall not rent or offer to rent any apartment, house, or other dwelling unit for which the license was refused unless a license is issued to him pursuant to a judgment ordering it.

§ 314-8. Penalty for late payment of license fee.

In the event that the licensee fee set forth herein is not paid within 30 days of the sending of written notification by the Town, the Council shall have the authority to revoke the Licensee's until it's paid.

§ 314-9. Collection of fees.

- A. The amount of any unpaid fee, the payment of which is required pursuant to this ordinance, shall constitute a debt due the Town.
- B. The solicitor shall, at the direction of the Council, institute civil suit in the name of the Town to recover any unpaid fee.
- C. No civil judgment or any act by the solicitor, the Council, or the violating licensee shall bar or prevent a criminal prosecution for each violation of this ordinance.

§ 314-10. Separate license for each rental unit.

A license shall be obtained in the manner prescribed in this ordinance for each apartment, house, or other dwelling unit.

§ 314-11. Duplicate licenses.

A duplicate license or special permit shall be issued by the Clerk to replace any license previously issued which has been lost, stolen, defaced, or destroyed without any wilful conduct on the part of the licensee, upon the filing by the licensee attesting to that fact and payment to the Town Clerk a fee of \$5.00.

§ 314-12. Liability of corporate officers, partnerships, etc.

The individuals composing any partnership, firm, or association and the president and directors of any corporation, and each of them, shall be personally liable for the license fees herein prescribed for such partnership, firm, association, or corporation and subject to prosecution for the renting or offering to rent any apartment, house, or other dwelling unit by such partnership, firm, association, or corporation in the Town without the license herein required.

§ 314-13. Procedure for renewal of licenses.

- A. The applicant for the renewal of a license shall submit an application for that license to the Clerk.
- B. The application shall:
 - (1) Be a written statement upon forms provided by the Clerk; the form shall include an affidavit to be sworn to by the applicant before a notary public of this state.
 - (2) Require the disclosure of any information concerning the applicant's demeanor and the conduct and operation of the applicant's business during the preceding licensing period as is reasonably necessary to the determination by the Code Enforcement of the applicant's eligibility for a renewal license and to a possible adjustment of the license fee.

§ 314-14. Transfer of license.

Each license granted under this ordinance shall be for the sole use and benefit of the person to whom it is issued and shall not be transferable. In case of the death of any individual licensee, his personal representative shall succeed to all rights thereunder until the expiration of the license.

§ 314-15. Display.

§ 314-16. General standards of conduct by licensee.

Every licensee under this ordinance shall:

- A. Ascertain and at all times comply with all laws and regulations applicable to the licensed business.
- B. Avoid all forbidden, improper, or other practices or conditions which do or may affect the public health, morals, or welfare.
- C. Refrain from renting or offering to rent any apartment, house or other dwelling unit after the expiration of his license and during the period his license is revoked or suspended.

§ 314-17. Inspections.

- A. The Code Officer shall make or have made all investigations reasonably necessary to the enforcement of this ordinance.

- B. The Council shall have the authority to order the inspection of licensee's rental units by all Town officials having duties to perform with reference to the licensees or rental units. Such Town official shall notify a licensee of an intended inspection at least ten-calendar days prior to the inspection unless the tenant has requested the inspection or an urgent issue concerning health or safety issues.
- C. All rental units shall be inspected before the initial license may be issued.
- D. Persons inspecting licensee's rental units shall report all violations of this ordinance to the Council and shall submit any other reports that the Council shall order.
- E. The Code Enforcement Officer, in accordance with the procedures set forth in the International Property Maintenance Code, Code of the Town of Frederica, International Residential Code, all applicable and national codes, shall inspect rental dwellings/properties for compliance with all said codes to ensure compliance. Following the inspection, the Code Enforcement Officer shall issue a letter and report any code violations and provide a due date for compliance.
- F. The Code Enforcement Officer shall have the authority to issue a citation to the property owner of the rental unit for failure to schedule an inspection and failure to correct violations by due date issued. Unless specified, each day any violation of any provision of this Code or any ordinance shall continue shall constitute a separate offence and may be issued a citation or fine for each day without further notice.

§ 314-18. Provisional orders.

- A. Generally.
 - (1) When an inspector has reported a violation of any ordinance by a holder of a license or any of his employees, the Code Officer. shall issue a provisional order to the licensee.
 - (2) The provisional order shall require compliance within five days of service on the affected person.
- B. Hearing on the provisional order. Upon written request by a person served with a provisional order pursuant to the provisions of this ordinance, the Council shall hold a hearing on the alleged violation; a notice of hearing shall be served in the manner required herein.
- C. Service of notices and orders. Provisional orders and all other notices issued pursuant to this ordinance shall be in writing, shall be personally served, and shall apprise the licensee of his specific violations. In the absence of the licensee or his agent or employee, a copy of the notice shall be affixed to some structure on the premises. Should any other permitted method of service of notice fail, then sending the notice to the

affected person's last known address shall constitute service.

- D. Authority of Code Off. to modify orders. Upon written application or on his own motion, the Council shall have the authority, in a proper case, to extend the time for compliance, to grant a new hearing date, and to change, modify, or rescind any recommendation or order.

§ 314-19. Final order.

- A. Upon the failure or refusal of the licensee to comply with the provisional order or with any order made after an opportunity for a hearing pursuant to this ordinance, the Council shall make the provisional order final.
- B. The Council shall have the authority to suspend or revoke a license upon making and declaring a provisional order final.
- C. Upon revocation or suspension, no refund of any portion of the license fee shall be made to the licensee and he shall immediately cease renting or offering to rent any apartment, house, or other dwelling unit in the Town.

§ 314-20. Summary action.

- A. When the conduct of any licensee, agent, or employee is so inimicable to the public health, safety, and general welfare as to constitute a nuisance and thus give rise to an emergency, the Code Enforcement shall have the authority to notify order the rental unit vacated and suspend the license.
- B. Unless waived in writing within 10 days after he has acted summarily, the Code Enforcement shall conduct a special hearing for the action in respect to the summary order as may be therein determined. Notice of the hearing shall be given the affected person in the manner prescribed herein.

§ 314-21. Appeals.

- A. Any person aggrieved by any decision of the Code Enforcement after a hearing conducted pursuant to this article, shall have the right to appeal to the Council by filing a written appeal with the Council within 30 days following the effective date of the action or decision complained of. The appeal shall set out a copy of the order or decision appealed from and shall include a statement of the facts relied upon to avoid the order.
- B. The Council shall fix a time and place for hearing the appeal and shall serve a written notice upon the person requesting the appeal informing such person of the hearing. The Council shall also give notice to the Code Enforcement who shall be entitled to appear and defend the order. The findings of the Council shall be final and conclusive and shall

be served upon the person who requested the appeal.

§ 314-22. Definitions.

For purposes of this ordinance, the following definitions shall apply:

RENTAL UNIT – A Single family dwelling unit occupied by one of more persons or residents which is not owner occupied, whether there is a rental agreement/contract or not, and regardless of any rental fee, monetary payment or provisions of goods or services being exchanged for rent or not.

Chapter 319

ROLLER SKATES AND ROLLERBLADES

§ 319-1. Definitions.

§ 319-3. Violation and penalties.

§ 319.2. Use restrictions.

§ 319-1. Definitions.

For purposes of this ordinance, the following definitions shall apply:

BUSINESS -- An establishment (commercial or industrial) engaged in the buying and/or selling of services and/or products. This category includes, but is not limited to, banks, department stores, convenience stores, office buildings, etc.

ROLLER BLADE -- A skate of which is mounted a single row of wheels running from front to rear for skating on a surface; also commonly referred to as in-line skates.

ROLLER SKATE -- A skate with wheels instead of a runner for skating on a surface.

§ 319-2. Use restrictions.

- A. At all times, it shall be a violation for any rider or operator of rollerblades and/or roller skates to interfere with or obstruct vehicular traffic on any roadway within the Town limits. Such riders shall skate to the extreme left of the roadway facing oncoming traffic.
- B. However, anything in this chapter to the contrary notwithstanding, rollerblades and roller skates may be permitted at specifically designated times and places with the Town by prior action of the Council.

§ 319-3. Violation and penalties.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a violation, and, upon conviction thereof shall be fined not less than \$25.00 nor more than \$100, plus court costs and Victims' Compensation Fund Assessment. Each day that any violation of any provision of this ordinance shall continue or occur shall constitute a separate offense.

Chapter 336

SEX OFFENDERS

ARTICLE I

Residency Restrictions

§ 336-1. Definitions.

§ 336-3. Notification.

§ 336-2. Restrictions.

§ 336-4. Applicability.

ARTICLE I

Residency Restrictions

§ 336-1. Definitions.

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, the words used in the present tense include the future tense, words in the plural number include the singular number, and words in a singular number include the plural number. The word "shall" is always mandatory and not merely directory.

CHILD CARE FACILITY -- A licensed day care center, a licensed child care facility, or any other child care services facility exempt from licensing pursuant to the laws of the State of Delaware.

PARK -- Any land, or tract of land, or facility used for passive or active recreation, including, but not limited to, playgrounds, parks, skate parks, athletic fields, and any other facility owned or operated by the Town of Frederica, Kent County, or the State of Delaware.

SCHOOL -- Any pre-school, kindergarten, elementary school, secondary school, vocational/technical school, or any other institution which has as its primary purpose the education or instruction of children under 16 years of age.

SEX OFFENDER -- Any person who is registered as a sex offender pursuant to Title 11, Chapter 41, Subchapter III of the Delaware Code.

§ 336-2. Restrictions.

It shall be unlawful for any sex offender to reside, lodge, abide, or live within 2,500 feet of any

school, park, or child care facility located within the town of Frederica. The two-thousand-five-hundred-foot distance shall be measured by following a straight line from the outer property line at the residence or lodging of the sex offender to the nearest outer property line of the school, park, or child care facility.

§ 336-3. Notification.

The Town shall notify any person who is in violation of this Ordinance and the person shall have 60 days to comply with this Ordinance. The person shall be deemed to have been notified of the violation when he or she has been personally delivered written notice by an agent of the Town, including the Building Inspector or an agent designated by the Council. If a person does not comply with this Ordinance within the 60-day period, he or she will be in violation of this Ordinance. The penalty for violation shall be punishable by a fine of up to \$1,000. Nothing herein shall prevent the Town from pursuing civil remedies, including injunctive relief.

§ 336-4. Applicability.

This Ordinance shall not apply to any sex offender who has established a residence prior to the date of adoption of this Ordinance. This Ordinance shall not apply if the school, park, or child care facility were established subsequent to the establishment of the sex offender's residence.

Chapter 343

SKATEBOARDS

§ 343-1. Definition

§ 343-2. Skateboarding prohibited

§ 343-3. Council may designate places where skateboarding permitted.

§ 343-4. Enforcement penalties.

§ 343-5. Parental responsibility.

§ 343-1. Definition.

As used in this chapter, the following terms shall have the meanings indicated:

JUVENILE -- Any person below the age of 18 years.

PUBLIC PLACE -- Any place which is open and available to public use, occupation, passage, or traffic, whether owned by a public or private entity, and including all streets, lanes, ways, alleys, sidewalks, parking lots, parks, plazas, tennis courts, basketball courts, playgrounds, and schoolyards. In addition to its ordinary meaning, "public place" shall also include the Town's benches, plaques, memorials, steps, and railings.

SKATEBOARD -- A relatively flat piece of wood, metal, fiberglass, or other material, usually ranging from four inches to 18 inches in width and from 12 inches to 36 inches in length, to which wheels are attached for the purpose of skateboarding. The term "skateboard" shall not include roller skates or inline skates ("roller blades") which consist of shoes or boots to which wheels are attached for skating.

SKATEBOARDING -- The act of pushing, propelling, or riding a skateboard.

§ 343-2. Skateboarding prohibited.

It shall be unlawful for any person to skateboard in, on, or over any public place in the Town of Frederica except as provided in Section 3 of this ordinance.

§ 343-3. Council may designate places where skateboarding permitted.

Anything this ordinance to the contrary notwithstanding, the Council may, by resolution, designate specific public places and/or specific days and times when skateboarding will be

permitted, provided that:

- A. The Council shall, at the written request of the legal owner/possessor of any public place, designate such place as a place where skateboarding shall be permitted for such days and times as so requested in writing by the owner/possessor thereof, unless the Council specifically determines that, under the circumstances, the public place so requested presents such a potential risk to other members of the public and/or skateboarders as to warrant denial of such request.
- B. The Council shall not, without the written consent of the legal owner/possessor of any public place, designate such place as a place where skateboarding shall be permitted.

§ 343-4. Enforcement penalties.

- A. First offense: warning. Any person observed by any police officer to be violating this ordinance shall be issued a written warning. If such person is a juvenile, a copy of such written warning shall be delivered or mailed to such juvenile's parents or lawful guardians at their last known address.
- B. Second and subsequent violations.
 - (1) Any person having previously been issued a written warning under Section 4(a) who is observed violating this ordinance a second subsequent time shall, upon conviction, forfeit and pay a fine of not less than \$25 nor more than \$100, plus court costs and Victim's Compensation Fund Assessment if applicable.
 - (2) If such person is a juvenile, a copy of the charges shall be delivered or mailed to such juvenile's parents or lawful guardians at their last known address.

§ 343-5. Parental responsibility.

- A. It shall be unlawful for any parent or other person having legal custody of a juvenile ("legal guardian") to knowingly permit, or by inefficient control, to allow such juvenile to repeatedly violate this ordinance. The term "knowingly" includes knowledge that a parent or legal guardian should reasonably be expected to have concerning the activities of juveniles in that parent's/guardian's custody. This requirement is intended to hold a neglectful or careless parent or guardian up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent or guardian was completely indifferent to the activities or conduct of such juvenile.
- B. Thus, where any juvenile shall be found guilty by a court of competent jurisdiction of violating this ordinance a third or subsequent time [counting the first offense warning provided for in Section 4(a) as a "first violation"], such parent/guardian shall be charged

with knowingly permitting the juvenile's unlawful conduct in violation of this ordinance and shall, upon conviction, pay a civil penalty of not less than \$25 nor more than \$100 plus court costs and Victim Compensation Fund Assessment if applicable.

Chapter 350

SOURCE WATER PROTECTION

§ 350-1. Title.

§ 350-2. Findings.

§ 350-3. Purpose and Intent.

§ 350-4. Definitions.

**§ 350-5. Source Water Protection Areas
(SWPA).**

§ 350-6. Prohibited Uses.

**§ 350-7. Wellhead Protection Areas
(WHPA).**

**§ 350-8. Ground-Water Recharge
Potential Areas.**

**§ 350-9. Boundary Determination for
SWPA.**

§ 350-10. Redevelopment.

**§ 350-11. Uniform Standards and
Criteria.**

**§ 350-12. Environmental Impact
Assessment Report.**

§ 350-13. Nonconforming Uses.

§ 350-14. Replacement and New Wells.

§ 350-1. Title.

This chapter shall be known and referred to and cited as the "Source Water Protection Ordinance."

§ 350-2. Findings.

Town of Frederica residents rely exclusively on groundwater as their source of drinking water. Although the Town has adequate quantities of groundwater, small amounts of pollution may contaminate large quantities of groundwater, making it unfit for human consumption, putting our citizens at greater risk of illness and disease, and imposing huge costs on residents and ratepayers who will be called upon to finance treatment systems or to secure alternative sources of drinking water. While a number of state environmental programs regulate various types of facilities and activities that are potential sources of contamination, county and municipal governments are responsible for controlling land use that can assist in providing some long-term groundwater protection.

§ 350-3. Purpose and intent.

The purpose of the Source Water Protection Area Ordinance is to ensure the protection of the

public drinking water supply from contamination. The *Town of Frederica* herein adopts the overlay maps delineating, as source water protection areas: wellhead protection and excellent ground-water recharge potential areas. To ensure the protection of these drinking water supplies, this ordinance establishes a zoning overlay to be known as the Source Water Protection Overlay. The purpose of the Source Water Protection Overlay is to protect public health and safety by minimizing contamination of aquifers, preserving, and protecting existing and potential sources of drinking water supplies. It is the intent to accomplish this through both public education and public cooperation, as well as by creating appropriate land use regulations that may be imposed in addition to those currently imposed by existing zoning *districts* or other state and county regulations.

The Source Water Protection Area Maps are superimposed on current zoning districts. It shall apply to all new construction, redevelopment, or expansion of existing buildings and new or expanded uses. Applicable activities/ uses allowed in a portion of one of the underlying zoning districts that fall within the Source Water Protection Overlay must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Source Water Protection Overlay District.

§ 350-4. Definitions.

This section defines words, terms, and phrases found in this article.

Aboveground Storage Tank (AST): An AST is a single containment vessel greater than 250 gallons as defined in the Delaware *Regulations Governing Aboveground Storage Tanks*, dated February 11, 2005 or as later revised. ASTs with a storage capacity greater than 12, 499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene are subject to the design, construction, operation, and maintenance requirements of the Delaware AST regulations.

Applicant: A person, firm, or government agency that executes the necessary forms to obtain approval or a permit for any zoning, subdivision, land development, building, land disturbance, or other activity regulated.

Aquifer: A geological formation, group of formations or part of a formation composed of rock, sand, or gravel capable of storing and yielding groundwater to wells.

CERCLA Hazardous Substances are defined in terms of either those substances specifically designated as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), otherwise known as the Superfund law, or those substances identified under other laws. In all, the Superfund law includes references to four other laws to designate more than 800 substances as hazardous, and identify many more as potentially hazardous due to their characteristics and the circumstances of their release. See: <http://www.epa.gov/superfund/programs/er/hazsubs/cercsubs.htm>

Contamination: Any physical, chemical, biological, or radiological substance that enters the hydrological cycle through human action and may cause a deleterious effect on ground water

resources; it shall include but is not limited to hazardous waste, limiting nutrients, and sanitary sewage.

Delineation: The process of defining and/or mapping a boundary that approximates the areas that contribute water to a particular water source used as a public water supply.

Environmental Impact Assessment Report (EIAR): A report required by this ordinance that assesses the environmental characteristics of a source water protection area and determines what effects or impacts will result if the area is altered or disturbed by a proposed action that would increase impervious cover beyond the recommended 20% threshold.

Excellent Ground-Water Recharge Potential Area: Those areas with high percentages of sand and gravel that have "excellent" potential for recharge as determined through a Stack Unit Mapping Analysis delineated by the Delaware Geological Survey and presented in the Report of Investigations No. 66, Ground-water Recharge Potential Mapping in Kent and Sussex Counties, Delaware, Geological Survey, 2004.

Geologist: An individual who is registered in the State of Delaware to practice the profession of geology.

Good Ground-Water Recharge Potential Area: Those areas with a significant percentage of sand and gravel that have a "good" potential for recharge as determined through a Stack Unit Mapping Analysis delineated by the Delaware Geological Survey and presented in the Report of Investigations No. 66, Ground-water Recharge Potential Mapping in Kent and Sussex Counties, Delaware, Geological Survey, 2004.

Ground Water: The water contained in interconnected pores located below the water table in an unconfined aquifer or located in a confined aquifer.

Hazardous Substance UST System means an underground storage tank system that contains a hazardous substance defined in 101(14) of the CERCLA (but not including any substance regulated as a hazardous waste under RCRA Subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

Hazardous Waste: A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible, illness, or pose a substantial present or potential a hazard to human health or the environment when improperly treated, stored, transported, or dispose of, or otherwise managed, Without limitation, included within this definition are those hazardous wastes described in Sections 261.31, 261.32, and 261.33 of the Delaware Regulations Governing Hazardous Waste.

Impervious Cover: Surfaces providing negligible infiltration such as pavement, buildings, recreation facilities (e.g. tennis courts, swimming pools, etc.), and covered driveways.

Non-Conforming Use: is an existing use of a lot or a building that was legal at the time of its

creation that is not permitted by this chapter in the district in which it is located.

Natural Condition: Open space that is essentially unimproved and set aside, dedicated, designated, or reserved for public or private use.

On-site Wastewater Treatment and Disposal System: conventional or alternative, wastewater treatment and disposal systems installed or proposed to be installed on land of the owner or on other land to which the owner has the legal right to install the system.

Passive Recreation refers to recreation that involves existing natural resources and has a minimal impact because they do not require the alteration of existing topography. Such passive recreation shall include but not be limited to non-motorized vehicles, hiking, bicycling, picnicking, and bird-watching.

Public Water Supply Well: Any well from which the water is used to serve a community water system by section 22.146 (Public Water Systems) in the Delaware State Regulations Governing Public Drinking Water Systems.

Public Drinking Water System: A community, non-community, or non-transient non-community water system, which provides piped water to the public for human consumption. The system must have at least 15 service connections or regularly serve at least 25 individuals daily for at least 60 days.

Redevelopment: Any proposed expansion, addition, or major facade change to an existing building, structure, or parking facility.

Runoff: That portion of precipitation or snow melt that has not evaporated or infiltrated into the soil, but flows on land or impervious surfaces.

Sanitary Landfill: A land site at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal, except that it will not include any facility that has been approved for the disposal of hazardous waste under the Delaware Regulations Governing Hazardous Waste.

Site plan approval: is a process for the review and approval of a development plan prior to the issuance of a development.

Source Water: refers to any aquifer from which water is drawn either periodically or continuously by a public water system.

Source Water Assessment Area: The area delineated by DNREC Source Water Assessment and Protection Program that contributes water to a public water supply system.

Source Water Assessment Plan: The October 1999 U.S. EPA approved plan for evaluating the sources of public drinking water in Delaware for their vulnerability and susceptibility to

contamination.

Source Water Assessment Report (SWAP): The identification and evaluation of the sources of water within the state used by public water systems in an effort to determine the vulnerability and susceptibility to contamination.

Storm-water: The runoff of water from the surface of the land resulting from precipitation or snow or ice melts

Storm-water Management:

A) for water quantity control, a system of vegetative, structural, and other measures that may control the volume and rate of storm-water runoff which may be caused by land disturbing activities or activities upon the land; and

B) for water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.

Source Water Protection Area: Wellhead Protection Areas, Good and Excellent Ground- Water Recharge Potential Areas

Vacant Property: Lands or buildings that are not actively used for any purpose as designated in the underlying zoning district/overlay for one year.

Underground Storage Tank (UST): An UST is one or a combination of Tanks including underground Pipes, the volume of which is 10% or more belowground, as defined in the *Delaware Regulations Governing Underground Storage Tank Systems*, dated June 11, 2010 or as later revised.

The following USTs are not subject to the design, construction, operation, and maintenance requirements of the Delaware UST Regulations: Residential Heating Fuel, Agricultural, and Residential Motor Fuel USTs less than 1,100 gallons and any UST less than 110 gallons. Wastewater: Water-carried waste from septic tanks, water closets, residences, building, industrial establishments, or other places, together with such groundwater infiltration, subsurface water, and mixtures of industrial wastes or other wastes as may be present.

Water Quality: Those characteristics of storm-water runoff from an impervious surface or a land disturbing activity that relate to the chemical, physical, biological, or radiological integrity of water.

Water Quantity: Those characteristics of storm-water runoff that relate to the volume of storm-water runoff to downstream-gradient areas resulting from land disturbing activities. Those characteristics of storm-water that relate to the volume of storm-water that infiltrates the land surface and enters the underlying aquifer.

Wellhead: The upper terminal of a well, including adapters, ports, seals, valves, and other attachments

Wellhead Protection Areas (WHPA): Surface and subsurface areas surrounding public water supply wells or well fields where the quantity or quality of ground water moving toward the wells or well fields may be adversely affected by land use activity.

Wellhead Protection Plan: The March 1990 U.S. EPA approved plan for protecting the quality of drinking water derived from public water supply wells in Delaware.

Wellhead Protection (WHP) Zone 1 is the surface area extending to a minimum **three hundred (300)** foot radius around the wellhead.

Wellhead Protection (WHP) Zone 2 is the remaining surface area of the delineated wellhead protection area outside Zone 1.

§ 350-5. Source Water Protection Areas (SWPA)

Source Water Protection Areas are Wellhead Protection Areas and Excellent Ground Water Recharge Potential Areas. All such areas are as depicted on Source Water Protection Area maps located in Town Hall as adopted as part of the update and implementation of the 2015 Comprehensive Land Use Plan. These maps are also available in GIS overlays from Delaware Department of Natural Resources and Environmental Control, Division of Water Resources, Source Water Assessment and Protection Program.

These areas shall be managed as required by the following sections to protect public drinking water resources from activities and substances that may harm water quality and subtract from overall water quantity.

§ 350-6. Prohibited Uses.

PROHIBITED USE TABLE or USE LIST

Table 1. Land Use Restrictions and Uses Source Water Protections Areas. Activities shall be subject to the land use restrictions contained within this ordinance that will protect the quality and quantity of ground water supplies. All uses not permitted in the underlying zone district are prohibited.

NO – YES—CONDITIONAL

| Land Use | Well Head Protection Area |
|----------|---------------------------|
|----------|---------------------------|

| | ZONE 1 | ZONE 2 | Excellent Ground-Water Recharge Potential Area Area |
|---|-----------|-----------|---|
| Aboveground Storage Tanks | NO | YES | C |
| Automobile body/repair shop | NO | YES | C |
| Chemical processing/storage facility | NO | C | C |
| Dry cleaner | NO | NO | NO |
| Electrical/electronic manufacturing facility | NO | C | NO |
| Equipment maintenance/fueling areas | NO | C | NO |
| Fleet/trucking/bus terminal | NO | C | NO |
| Gas station | NO | C | C |
| Hazardous Waste: Treatment, Storage, and Disposal Facilities | NO | NO | NO |
| # dry wells/sumps | NO | C | NO |
| # Injection wells | NO | C | NO |
| Junk/scrap/salvage yard | NO | NO | NO |
| Land divisions resulting in high density (Greater than 1 acre) | NO | C | C |
| Machine shop | NO | C | NO |
| Manure Storage | NO | NO | NO |
| Metal plating/finishing/fabricating facility | NO | C | NO |
| Mines/gravel pit | NO | NO | NO |
| On-Site Wastewater Treatment and Disposal Systems | NO | NO | NO |
| Sanitary and Industrial Landfills | NO | NO | NO |
| Underground storage tanks | NO | C | C |

| | | | |
|-----------------------------------|----|----|----|
| Vessel Storage | NO | C | C |
| Wood preserving/treating facility | NO | NO | NO |
| | | | |

Conditional:

(#) *Dry wells/sumps, except for single-family residences directing gutter downspouts to a drywell;*

(#) *Injection wells other than those used in the remediation of ground water contamination that inject oxygen- releasing compounds.*

§ 350-7. Wellhead Protection Areas (WHPA)

The DNREC Source Water Assessment and Protection Program delineate wellhead protection areas to ensure the integrity of public drinking water. Deep wells drilled into confined aquifers and low volume wells in unconfined aquifers have at minimum, three hundred foot radius wellhead protection area. The wellhead protection area surrounding public supply wells in unconfined aquifers that pump more than 50,000 gallons per day are delineated using a mathematical model. This type of well draws large quantities of water and can have much larger wellhead protection areas. Zone classifications have been created to manage land use within the wellhead protection area. They are defined as:

Wellhead Protection (WHP) Zone 1 is the surface area extending in *three hundred (300)* foot radius around the wellhead.

Wellhead Protection (WHP) Zone 2 is the remaining surface area of the wellhead protection area outside Zone 1. Land use restrictions within Zone 2 are required to insure adequate protection of public drinking water supply.

A) WHP Zone 1 Requirements:

1) Parcels of land within a WHP Zone 1 wellhead protection area will be preserved in a natural condition with the exception of impervious surface limited to building and access associated with the well and distribution and treatment facilities and their maintenance.

2) Aboveground storage tanks for materials used in the treatment facility operation are permitted.

3) Underground storage tanks are prohibited.

4) Storm-water runoff will be diverted away from the wellhead.

- 5) Storm-water infiltration practices designed to handle runoff are prohibited.
- 6) On-site Wastewater and Disposal Systems shall not be permitted.

B) Zone 2 Requirements:

IMPERVIOUS COVER

1) Impervious cover: Wellhead Protection Areas with Zone 2 should not exceed 20% impervious cover. New development in this Zone may exceed the 20% impervious cover threshold within Wellhead protection Areas, but shall be no more than 50% impervious cover, provided the applicant submits an Environmental Assessment Impact Report (See Environmental Assessment Impact Report Section §350- 12).

STORMWATER

2) Storm-water shall be treated by an approved storm-water quality management practice in accordance with current requirements of the *Delaware Sediment and Storm-water Regulations* dated January 1, 2014 or as later revised.

3) For all new construction, all structures shall be required to discharge roof drains onto permeable surfaces.

UNDERGROUND STORAGE TANKS

4) Underground storage tanks with a capacity greater than 110 gallons containing petroleum, and Residential and Agricultural USTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel shall be permitted in a designated wellhead area if the USTs are designed, constructed, maintained, and operated in accordance with the *Delaware Regulations Governing Underground Storage Tank Systems*, dated March 12, 1995 or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.)

5) Underground storage tanks with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA §101(14) shall be permitted in a designated wellhead area if the USTs are designed, constructed, maintained and operated in accordance with the *Delaware Regulations Governing Underground Storage Tank Systems*, March 12, 1995 or as later revised . (NOTE: Regulated USTs must be constructed with secondary containment of the Tanks and piping and must have continuous monitoring for releases.)

ABOVEGROUND STORAGE TANKS

6) Aboveground storage tanks with a capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999

gallons containing diesel, heating fuel or kerosene shall be permitted in a delineated wellhead area if the ASTs are designed, constructed, operated and maintained with the applicable requirements in of the Delaware *Regulations Governing Aboveground Storage Tanks*, dated February 11, 2005 or as later revised.

WASTEWATER TREATMENT AND DISPOSAL SYSTEMS

7) On-site Wastewater Treatment and Disposal Systems shall not be permitted.

§ 350-8. Ground-Water Recharge Potential Areas.

A) Excellent/Good Ground-Water Recharge Potential Areas

IMPERVIOUS COVER

1) Impervious Cover: The excellent ground-water recharge potential area should not exceed 30% impervious cover. New development in this Area may exceed the 30% impervious cover threshold within the excellent ground-water recharge potential area, but shall be no more than 50% impervious cover, provided the applicant submits an Environmental Assessment Impact Report (See Environmental Assessment Impact Report Section §350-12).

STORMWATER

2) Storm-water shall be treated by an approved storm-water quality management practice in accordance with current requirements of the *Delaware Sediment and Storm-water Regulations* dated January 1, 2014 or as later revised.

3) For all new construction, all structures shall be required to discharge roof drains onto permeable surfaces.

UNDERGROUND STORAGE TANKS

4) Underground storage tanks with a capacity greater than 110 gallons containing petroleum, and Residential and Agricultural USTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel shall be permitted in an excellent ground-water recharge potential area if the USTs are designed, constructed, maintained and operated in accordance with the Delaware *Regulations Governing Underground Storage Tank Systems*, dated March 12, 1995 or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.)

5) Underground storage tanks with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA §101(14) shall be permitted in a delineated excellent ground-water recharge potential area if the USTs are designed, constructed,

maintained and operated in accordance with the Delaware *Regulations Governing Underground Storage Tank Systems*, dated March 12, 1995 or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.)

ABOVEGROUND STORAGE TANKS

6) Aboveground storage tanks with a capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene shall be permitted in a delineated excellent ground-water recharge potential area if the ASTs are designed, constructed, operated and maintained with the applicable requirements in of the Delaware *Regulations Governing Aboveground Storage Tanks*, dated February 11, 2005 or as later revised.

WASTEWATER TREATMENT AND DISPOSAL SYSTEMS

7) On-site Wastewater Treatment and Disposal Systems shall not be permitted in an excellent ground-water recharge potential area.

§ 350-9. Boundary Determination for SWPA.

A) All subdivision and land development plans depicting development or land disturbance submitted for Town review shall be evaluated for the existence of source water protection areas. All such areas are as depicted on Source Water Protection Area maps located in Town Hall as adopted as part of the update and implementation of the 2015 Comprehensive Land Use Plan. These maps are also available in GIS overlays. Maps/overlays are available from Delaware Department of Natural Resources and Environmental Control (DNREC), Division of Water Resources, Source Water Assessment and Protection Program (SWAPP). If a SWPA exists within a proposed development site, the boundaries of these areas shall be delineated on the plan by the applicant's State of Delaware Professional Engineer or Professional Geologist.

B) DNREC SWAPP may, when based on sound science and information, revise and update the overlay maps of wellhead protection areas.

C) The Delaware Geological Survey (DGS) may, when based on sound science and information, revise and update the overlay maps of good or excellent ground-water recharge potential areas.

D) When there appears to be a conflict between the mapped boundary and actual site conditions, the applicant may engage the services of Professional Geologist to prepare a report intended to determine more accurately the precise boundary of the Source water Protection Area. The Report shall include:

- 1) A detailed topographic layout of the subdivision and/or area to be developed and prepared by a State-registered professional land surveyor or Professional Geologist;

2) Evidence derived from a site-specific investigation that may include aquifer testing, test borings, test pits, observation wells, groundwater elevations, and topography surveys as appropriate for the type of source water protection area that clearly demonstrate that the area in question does not meet the definition of a source water protection area as defined.

3) Any challenges to the delineations of the good or excellent ground-water recharge potential areas must follow the methods used in the Delaware Geological Survey publication: *Report of Investigations No. 66, Ground-Water Recharge Potential Mapping in Kent and Sussex Counties, Delaware*. The challenge must be approved by DGS.

§ 350-10. Redevelopment.

Impervious Cover Restrictions

A) Site Modifications that require Site Plan Approval must create a 15% reduction in the amount of impervious cover on the site when compared to pre-redevelopment conditions.

B) If the 15% reduction would require a site to go below the 30% maximum impervious cover provisions of Source Water Protection Areas, then the maximum impervious surface cover for the site is 30%.

STORMWATER

C) Sites that do not meet the 30% impervious cover threshold must employ rooftop infiltration practices. Storm-water shall be treated by an approved storm-water quality management practice in accordance with current requirements of the *Delaware Sediment and Storm-water Regulations* dated January 1, 2014 or as later revised.

D) If the 15% reduction does not meet the 30% impervious cover threshold, the site must employ rooftop infiltration practices. Storm-water shall be treated by an approved storm-water quality management practice in accordance with current requirements of the *Delaware Sediment and Storm-water Regulations* dated January 1, 2014 or as later revised. Abandoned or Vacant Property

E) Redevelopment Section § 350-9; Impervious Cover Restriction A, B, C, and D, does not apply to vacant or abandoned property. These properties must comply with the source water protection area zoning district regulations.

§ 350-11. Uniform Standards and Criteria.

A) Hazardous Waste Treatment, Storage, and Disposal Facilities, as defined in 7 DE Admin. Code 1302, *Delaware Regulations Governing Hazardous Waste*, shall not be permitted in source water protection areas.

- B) Sanitary and Industrial Landfills, as defined in 7 DE Admin. Code 1301, Delaware Regulations Governing Solid Waste, shall not be permitted in source water protection areas.

§ 350-12. Environmental Impact Assessment Report.

New development in Town of Frederica may exceed the 30% impervious cover threshold within Good and/or Excellent Ground Water Recharge Potential Areas and WHP Zone 2, but be no more than 50% impervious, provided the applicant submits an environmental assessment report including a climatic water budget and systems to augment recharge that assure water quality as well as quantity. The environmental impact assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.

Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey pretreated rooftop runoff for infiltration to ground water. Refer to Supplement 1 entitled *Ground-Water Recharge Design Methodology*, dated May 2005 or later as revised for the details of how to design recharge facilities in Delaware source water protection areas.

A) Delaware Registered Professional Engineer and/or Professional Geologist prepares an environmental assessment report, usually containing the following elements of planning, design, construction, and maintenance of ground-water recharge facilities:

- 1) Site description of proposed development within the water resource protection area
- 2) Climatic water balance comparing predevelopment and post-development recharge potential
- 3) Subsurface exploration including borings, test pits, and infiltration tests
- 4) Design of ground-water recharge facilities that assure water quality as well as quantity
- 5) Construction and maintenance considerations
- 6) Recommended ground-water monitoring plan
- 7) Water management agreement between the applicant and the town, city, or county providing for monitoring and maintenance of the recharge system. The applicant will abide by the Ground Water Management Agreement as written in DNREC *Supplement 1 to the Source Water Protection Guidance Manual for the Local Governments of Delaware: Ground-Water Recharge Design Methodology*, dated May 2005 or as later revised.

§ 350-13. Nonconforming Uses.

- A) Nonconforming uses may continue in *wellhead protection area, good ground-water recharge potential, and excellent ground-water recharge potential* areas in the form in which they existed at the time of the adoption of this ordinance, unless they pose a direct hazard to the city's water supply, as determined by the water and waste water department upon advice from the Delaware Division of Public Health, or are causing some foreign substances (oil, salts, chemicals, or other substances) to be introduced into the city's water supply, as determined by the water and waste water department upon advice from DNREC's Division of Air and Waste Management and/or Division of Water Resources. In the latter case, the building department shall issue a mandatory cease and desist to stop the offending activity within the area. Nonconforming existing underground or above-ground storage of oil, petroleum, and petroleum products shall require secondary containment pursuant to the State of Delaware regulations governing underground storage tanks or for above-ground storage of petroleum products secondary containment facilities capable of capturing the material stored on the site, for existing facilities that are proposed either to be upgraded or replaced.

§ 350-14. Replacement and New Wells

- 1) The replacement of any existing public water supply well that was not required to meet this wellhead protection requirement at the date of its original installation and that has failed shall be exempt from meeting this wellhead protection requirement.
- 2) All public water supply wells within a housing development, subdivision, or strip development recorded on or after the implementation of the *Delaware Regulations Governing the Construction and Use of Wells*, dated April 6, 1997 or as later revised, shall be located at least three hundred (300) feet within the subdivision's or development's outermost property lines.

Chapter 357

STANDARD SPECIFICATIONS FOR UTILITY CONSTRUCTION PROJECTS AND SUBDIVISION PAVEMENT DESIGN

§ 357-1. Specifications adopted.

§ 357-1. Specifications adopted.

The Town of Frederica hereby adopts the Standard Specifications for Installation of Utility Construction Projects and Subdivision Pavement Design on file in Town Hall.

Chapter 365

STREETS AND SIDEWALKS

ARTICLE I

Supervision; Maintenance; Use

- § 365-1. Supervision.**
- § 365-2. Construction.**
- § 365-3. Bond.**
- § 365-4. Specifications.**
- § 365-5. Injury to new pavements.**
- § 365-6. Repairs.**
- § 365-7. Defects.**
- § 365-8. Obstruction.**
- § 365-9. Barricades.**
- § 365-10. Disturbing barricades.**
- § 365-11. Private use.**
- § 365-12. Encroachments.**
- § 365-13. Drains.**
- § 365-14. Games**
- § 365-15. Planting of trees.**
- § 365-16. Removal of trees.**
- § 365-17. Dangerous trees.**
- § 365-18. Wires.**

§ 365-19. Deposits on streets.

§ 365-20. Deposits on sidewalks.

§ 365-21. Snow removal.

§ 365.22. Penalty.

ARTICLE II

Trees, Bushes and Shrubs

§ 365-23. Prohibited conduct.

§ 365-24. Abatement by Town.

ARTICLE III

Sidewalk Maintenance

§ 365-25. Snow removal required.

§ 365-26. Commercial establishments.

§ 365-27. Grass and weeds.

§ 365-28. Abatement by Town

§ 365-29. Liens.

§ 365-30. Violations and penalties.

§ 365-31. Separate offenses.

§ 365-32. Fine schedule.

§ 365-33. Liens for unpaid fines.

ARTICLE I

Supervision; Maintenance; Use

§ 365-1. Supervision.

All maintenance and repairs of public streets, alleys, sidewalks, and other public ways shall be under the supervision of the Code Enforcement Officer. Sidewalk shall mean that area from the edge of the pavement or curb to the property line or right of way line. He shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances), and is hereby authorized to enforce such ordinances.

§ 365-2. Construction.

It shall be unlawful to construct or lay any pavement on any public street, sidewalk, alley, or other public way, or to repair the same without having first secured a permit therefor. Applications for such permits shall be made to the Clerk and shall state the location of the intended pavement or repair, the extent thereof, and the person or firm who is to do the actual construction work. No such permit shall be issued except where the work will conform to the ordinances of the Town.

§ 365-3. Bond.

Each applicant shall file a Bond, with surety, to be approved by the Town Council and in an amount to be specified by the Council conditioned to indemnify the Town for any loss or damage resulting from the work undertaken or the manner of doing same.

§ 365-4. Specifications.

All streets and sidewalk pavements shall be made in conformity with specifications laid down or approved by the Council in the Land Development Ordinance.

§ 365-5. Injury to new pavements.

It shall be unlawful to walk upon or drive any vehicle or animal upon or injure any newly laid street or sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft or newly laid pavement.

§ 365-6. Repairs.

All sidewalk pavements shall be in good repair. The abutting owner shall be responsible for maintenance of the sidewalk under the supervision of the Code Enforcement Officer.

§ 365-7. Defects.

It shall be the duty of every municipal employee becoming cognizant of any defect in any street, alley, or sidewalk, or any obstruction thereof, to report the same to the Council as soon as possible.

§ 365-8. Obstruction.

It shall be unlawful for any person, firm, or corporation to cause, create, or maintain any obstruction on any street, alley, sidewalk, or other public way except as may be specified by ordinance or by the Council.

§ 365-9. Barricades.

Any person, firm, or corporation laying or repairing any pavement on a street, sidewalk, or other public place, or making an excavation in the same, shall maintain suitable barricades to prevent injury of any person or vehicle by reason of the work; such barricades shall be protected by a light at nighttime.

§ 365-10. Disturbing barricades.

It shall be unlawful to disturb or interfere with any barricade or lights lawfully placed to protect or mark any new pavement or excavation or opening in any public street, alley, or sidewalk.

§ 365-11. Private use.

Unless specifically authorized by ordinance or permit, it shall be unlawful for any person, firm, or corporation to use any street, sidewalk, or other public place as space for the display or goods or merchandise for sale, or to write or make any sign or advertisement on any such pavement.

§ 365-12. Encroachments.

It shall be unlawful to erect or maintain any building or structure which encroaches on any public street or property.

§ 365-13. Drains.

It shall be unlawful to obstruct any drain in any public street or property.

§ 365-14. Games.

It shall be unlawful to play any games on any streets, alley, or sidewalk or other public place where such games cause unnecessary noise or interfere with traffic or pedestrians.

§ 365-15. Planting of trees.

It shall be unlawful to plant any tree, or bush, or shrubbery on the outside of any sidewalk in the area between the sidewalk and the adjoining street or alley except when approved by the Planning Commission.

§ 365-16. Removal of trees.

It shall be unlawful to remove or cut down any tree, bush, or shrub in any such public place without having secured a permit therefor. Applications for such permits shall be made to the Clerk and shall be referred to and approved by the Council before issuance.

§ 365-17. Dangerous trees.

Any tree or shrub which overhangs any sidewalk, street, or other public place in the Town in such a way as to impede or interfere with traffic or travel, or within 10 feet of the street or within seven feet of the sidewalk level shall be trimmed by the owner of the premises abutting or of the premises on which the tree or shrub grows so that the obstruction shall cease. Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands. The Council may order any such tree or shrub trimmed or remove any such tree or branch thereof so that the obstruction or danger to traffic or passage shall be done away with.

§ 365-18. Wires.

Any person or company which maintains poles and wires in the streets, alleys, or other public places shall in the absence of provision in a franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs, near such wires and poles properly trimmed subject to the supervision of the Code Enforcement, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

§ 365-19. Deposits on streets.

It shall be unlawful to deposit on any street any material which may be harmful to the pavement thereof, or any waste material or any glass or other articles which may do injury to any person animal, or property. Coal or other material may be deposited in streets preparatory to delivery or use, provided that such material or coal other than material to be used in actual building construction shall not be permitted to remain in such street for more than three hours. Any such material or coal shall be guarded by lights if the same remains upon any street after nighttime.

§ 365-20. Deposits on sidewalks.

It shall be unlawful to deposit on any public sidewalk any material which may be harmful to the pavement thereof, or any waste material or any glass or other articles which might cause injury to persons, animals, or property. Merchandise or other articles may be deposited on sidewalks preparatory to delivery provided that the usable width of the sidewalk is not thereby reduced to less than four feet, and provided that no such article shall remain on such sidewalk for more than three hours.

§ 365-21. Snow removal.

It shall be unlawful for snow to remain upon sidewalks within the Town for more than 12 hours after the time when the last major snow flurry has ceased, except that with snow terminating in the nighttime, if for the purpose of this section, the running of the 12-hour period shall be considered to have started with 6:00 o'clock a.m. of the following day. Failure to comply with this section shall confer unto the Town the right and authority to remove such snow, and such non-compliance will subject the property occupant to a penalty of \$25 together with the actual cost to the Town for removal of the said snow. This Section applies solely to the occupant of the premises before which the sidewalk exists, unless such premises are unoccupied, in which case it shall apply instead to the owner or lessee thereof, as the case may be.

§ 365-22. Penalty.

Any person, firm, or corporation violating any provisions of this Article, excluding any provision wherein a specific penalty is set forth, shall be fined not less than \$25.00 nor more than \$100 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

ARTICLE II
Trees, Bushes and Shrubs.

§ 365-23. Prohibited conduct.

No property owner within the Town limits of Frederica shall permit any trees, bushes, or any type of shrubbery to block or partially block any walkways or to impair the vision on streets or at intersections.

§ 365-24. Abatement by Town.

If within five days after due notice by the Code Enforcement Officer of a violation of this ordinance, the problem has not been corrected, the property owner shall be guilty of a violation and upon conviction shall be fined not less than \$ 25.00 or more than \$100 for each offence and each day of continuing violation will be deemed a separate offence. In the event such trees, bushes, or shrubs are not trimmed or removed by the required time, the Town may cause such trees, bushes, or shrubs to be removed. If the Town incurs any expenses in removal of the violation, it may maintain a civil action suit for the recovery thereof against such property owner guilty of such violation. In the alternative, the Town may cause a lien to be filed against the property and add the expenses to the next tax bill. No civil liability shall attach to any act of any contractor or Town employee engaged in carrying out this section.

ARTICLE III
Sidewalk Maintenance

§ 365-25. Snow removal required.

It shall be unlawful for the owner or occupant of any premises abutting upon a sidewalk to permit or allow snow or ice to remain thereon for longer than 12 hours of daylight after it has ceased snowing, or to permit debris or other materials to accumulate at any time so that pedestrians may conveniently and safely pass.

§ 365-26. Commercial establishments.

All persons occupying commercial establishments or premises fronting on any street or public place shall keep the sidewalk immediately in front of their premises clear of debris or other materials so that pedestrians may conveniently pass, and shall not sell, display, or advertise goods or services on the sidewalk. Further, upon obtaining special permission from the Council, such persons may utilize, for the display of merchandise, areas within the sidewalk right-of-way.

§ 365-27. Grass and weeds.

It shall be unlawful for the owner or occupant of any premises abutting upon a sidewalk to permit grass or weeds to grow on the sidewalk.

§ 365-28. Abatement by Town.

In the event that any owner, occupant, or tenant of any premises, or any agent caring for or in charge of the premises within the Town shall permit grass or weeds to grow on the sidewalk, then the Council or his authorized agents shall issue a summons showing a violation of this Ordinance, said summons to be served personally or by certified mail upon the owner, occupant, or tenant of the premises, or any agent caring for or in charge of the premises. The summons shall cite the violation of this Ordinance and shall be accompanied by a letter or a copy of the relevant provisions of the Ordinance stating what corrective action must be taken and shall state the consequences for failure to take such corrective action. If the violation is not corrected within three days from the date of personal service of the summons or within seven days from the date of mailing of the summons by certified mail, then the Town Maintenance at the direction of the Council may remove the grass or weeds growing on the sidewalk in violation of this Ordinance and charge the responsible person \$75 per hour for such work that must be done to render the property in compliance with this Ordinance. When the owner, occupant, or tenant of any premises, or any agent caring for or in charge of the premises has received summonses and fails to take corrective action, and the Town has corrected the violation in accordance with this section, then no further notification shall be necessary for the Town to take any further corrective action on any subsequent violations within the following twelve month period starting from the date of the first corrective action by the Town.

§ 365-29. Liens.

In the event that the owner, occupant, tenant, or other agent caring for or in charge of the premises is deemed to be in violation of this Ordinance and in the event that the violation is corrected in compliance with the preceding paragraph, and if the charges assessed by the Town for correcting said deficiency are not paid, then the Town, after having corrected the deficiency and violation, shall place its charges and expenses as specified in the municipal lien docket as a lien against said property and in the Lien Docket maintained by the Prothonotary, and the Town solicitor shall be directed to enforce said lien or to collect the charges imposed by the Town by any other means that he may deem desirable and most advantageous.

§ 365-30. Violations and penalties.

Any person convicted of a violation of this Ordinance, regardless of corrective actions taken, shall be punished for that violation by a fine of not less than \$25 nor more than \$100. Any such fine shall be in addition to any charges or assessments imposed upon the violator pursuant to this Ordinance. All fines imposed shall be in accordance with the minimum fine schedule set out herein.

§ 365-31. Separate offenses.

Every day that a violation of this Ordinance continues shall be considered a separate offense, for

which the violator may be tried and convicted without necessity of further notice.

§ 365-32. Fine schedule.

A. Any fine assessed pursuant to this Ordinance shall be no less than the minimum amount set out in the following schedule:

- (1) First offense: \$25.
- (2) Second offense: \$50.
- (3) Third and subsequent offenses: \$100.

B. In determining the applicable minimum fine, an offense shall be considered a recurring offense only if the defendant has previously pleaded, or been found guilty of causing or permitting the same nuisance at the same location within the past 18 months, or for everyday that the violation of this Ordinance continues.

§ 365-33. Liens for unpaid finds.

Any fines imposed pursuant to this Ordinance which remain unpaid shall be placed as a lien against the property on which the violation occurred and shall be added to the next tax bill.

Chapter 378

TAXATION

ARTICLE I Realty Transfer Tax

§ 378-1. Definitions

§ 378-2. Levy of tax; exemptions.

§ 378-3. Payment of tax generally; documentary stamp generally.

§ 378-4. Liability for payment of tax as between parties.

§ 378-5. Recordation of documents

§ 378-6. Functions of Treasurer.

§ 378-7. Prohibited acts enumerated.

§ 378-8. Penalty for violations.

ARTICLE II Partial Tax Relief for Senior Citizens.

§ 378-9. Discount on real property taxes.

§ 378-10. Qualifications for participation.

§ 378-11. Residency requirement.

§ 378-12. Ownership of property.

§ 378-13. Eligible property .

§ 378-14. Filing for exemption.

§ 378-15. Appeals

ARTICLE I Realty Transfer Tax

§ 378-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

DOCUMENT — Any deed, instrument or writing whereby any real estate within the corporate limits of the Town, or any interest therein, shall be quitclaimed, granted, bargained, sold or otherwise conveyed to the grantee, but shall not include the following:

A. Any will;

B. Any lease;

- C. Any mortgage;
- D. Any conveyance between corporations operating housing projects pursuant to Chapter 45 of Title 31 of the Delaware Code, and the shareholders thereof;
- E. Any conveyance between nonprofit industrial development agencies and industrial corporations purchasing from them;
- F. Any conveyance to nonprofit industrial agencies;
- G. Any conveyance between husband and wife;
- H. Any conveyance between persons who were previously husband and wife, but who have since been divorced; provided that such conveyance is made after the granting of the final decree in divorce and the real estate of interest therein subject to such conveyance was acquired by the husband and wife, or husband or wife, prior to the granting of the final decree in divorce;
- I. Any conveyance between parent and child or the spouse of such a child;
- J. Any conveyance (a) to a trustee, nominee or straw party for the grantor as beneficial owner; (b) for the beneficial ownership of a person other than the grantor where if such person were the grantee, no tax would be imposed upon the conveyance pursuant to this chapter; or (c) from a trustee, nominee or straw party to the beneficial owner;
- K. Any conveyance between a parent corporation and a whole-owned subsidiary corporation; provided that such conveyance is without actual consideration;
- L. Correctional deeds without actual consideration;
- M. Any conveyance to or from the United States, this state or to any of their instrumentalities, agencies or political subdivisions;
- N. Any conveyance by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises are taken in trade by such builder as a part of the consideration from the purchaser of new, previously unoccupied premises;
- O. Any conveyance to the lender holding a bona fide mortgage, which is genuinely in default, either by a sheriff conducting a foreclosure sale, or by the mortgagor in lieu of foreclosure;
- P. Any conveyance to a religious organization or other body or person holding title to real estate for a religious organization, if such real estate will not be used following such transfer by the grantee, or by any privy of the grantee, for any commercial purpose;

- Q. Any conveyance to or from a non profit corporation organization of real estate acquired for the purpose of rehabilitation and resale without profit;
- R. Any transfer to or from a corporation, or a partnership, where the grantor or grantee owns stock of the corporation or an interest in the partnership, in the same proportion as his interest in or ownership of the real estate being transferred; provided, however, that this shall not apply to any distribution in liquidation or other transfer resulting from the liquidation of a corporation unless the stock of the corporation being liquidated has been held by the grantor or grantee for more than three years.

TRANSACTION — The making , executing, delivering, accepting or presenting for recording of a document.

VALUE — In the case of any document granting, bargaining, selling or otherwise conveying any land, tenement or hereditament, or interest therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon and ground rent, or a commensurate part of the liens or other encumbrances and ground rent also encumber other lands, tenements or hereditament. Where such document shall not set forth the real or bona fide consideration therefor, the “value” thereof shall be determined from the price set forth in or actual consideration for the contract of sale, or in the case of a gift or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold or otherwise conveyed, which in either event shall not be less than the amount of the estimated full value of such lands, tenements or hereditament for local tax purposes as determined by the Board of Assessment.

§ 378.2. Levy of tax; exemptions.

- A. Every person who makes, executes, issues or delivers any document, or in whose behalf any document is made, executed, issued, or delivered, shall pay therefor and in respect thereof, or for and in respect of the vellum, parchment, or paper upon which such document is written or printed, a tax at the rate of 1.5% of the value of the property represented by such document, which tax shall be payable at the time of the making, execution, issuance or delivery of such document; said tax is to be apportioned equally between grantor and grantee unless otherwise provided for by agreement of the parties.
- B. Where a person acquires title to any lands, tenements or hereditament as a nominee or as a straw party for the real grantee or purchaser, the transfer of such title by such nominee or straw party to the real grantee or purchaser shall be exempt from this tax.
- C. Where a person acquires title to any lands, tenements or hereditament for the purpose of holding same as a nominee or as a straw party for the grantor or purchaser, such transfer of title to the nominee or straw party shall be exempt from this tax.

§ 378-3. Payment of tax generally; documentary stamps generally.

- A. The payment of the tax imposed by this Ordinance shall be evidence by the affixing of one or more documentary stamps to every document by the person making, executing, issuing or delivering such document regardless of the situs of the actual making, executing, issuing or delivering of such document.
- B. Such stamps shall be affixed in such manner that their removal will require the continued application of stem or water, and the person using or affixing such stamps shall cause such stamps to be canceled in such manner that they may not be used again either:
 - (1) By writing or stamping or by causing to be written or stamped thereon the initials of his name and the date upon which such stamps are affixed or used; or
 - (2) By complying with such other method of cancellation as the Treasurer may prescribe.
- C. Property of tax; determination of value.
 - (1) The tax imposed by this Ordinance shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale, and of the writ upon which the sale is made, and the sheriff or other officer conducting such sale shall pay the tax herein imposed out of the first moneys paid to him in connection therewith, unless previously paid by any party; provided, however, that any tax imposed by the state shall have priority over the tax imposed under this Ordinance.
 - (2) The value for determining the tax shall be the highest of the following:
 - (a) The bid price;
 - (b) The amount of the mortgage not in excess of the fair value of the real estate;
 - (c) The estimated full value.
 - (d) The full and complete value pursuant to Section 1(d).

§ 378-4. Liability for payment of tax as between parties.

As between the parties to any transaction which is subject to the real estate transfer tax imposed by this Ordinance, in the absence of an agreement to the contrary, the burden for paying such tax shall be on the grantor.

§ 378-5. Recordation of documents.

- A. No document shall be recorded in the office of the Recorder of Deeds in and for Kent County unless one or more documentary stamps shall have been affixed thereto as provided in this Ordinance.
- B. The affixation of stamps to a document upon which a tax is imposed by this ordinance when lodged with or presented to the Recorder of Deeds and Treasurer shall be an affirmation on the part of the transferor that the true, full, and complete value of the transaction is fully reflected in the amount of the stamps affixed thereto.
- C. Every document when lodged with or presented to the Recorder of Deeds and Treasurer shall set forth therein and as a part of such document the true, full, and complete value thereof, or shall be accompanied by an affidavit executed by a responsible person connected with the transaction showing such connection and setting forth the true, full, and complete value thereof or the reason, if any, why such document is not subject to tax under this Ordinance.

§ 378-6. Functions of Treasurer.

In addition to the other duties of the Treasurer:

- A. The Treasurer shall prepare and furnish adhesive stamps of such denominations and in such quantities as may be necessary for the payment of the tax imposed by this Ordinance and shall make provisions for the sale of such stamps in such places as may be deemed necessary.
- B. The Treasurer may by regulation provide for the evidence of the payment of the tax to be shown on the document by means other than the affixing of documentary stamps.
- C. The Treasurer is charged with the enforcement of this Ordinance and is authorized and empowered to prescribe, adopt, promulgate, and enforce regulations relating to:
 - (1) The method to be used in affixing or canceling of stamps in substitution for or in addition to, the method and means provided in this Ordinance;
 - (2) The denomination and sale of stamps;
 - (3) Any other matter or thing pertaining to the administration and enforcement of this Ordinance.

§ 378-7. Prohibited acts enumerated.

No person shall:

- A. Make, execute, issue, deliver or accept, or cause to be made, executed, issued, delivered or accepted, any document without the full amount of tax due thereon under the provisions of this Ordinance being duly paid; or
- B. Make use of any documentary stamp to denote payment of any tax imposed by this Ordinance without canceling such stamp as provided in Section (b); or
- C. Fail, neglect or refuse to comply with, or otherwise violate, the regulations prescribed, adopted, and promulgated by the department under the provisions of this Ordinance; or
- D. Fraudulently cut, tear or remove from a document any documentary stamp; or
- E. Fraudulently affix to any document upon which a tax is imposed by this Ordinance any documentary stamp which has been cut, torn, or removed from any other document upon which a tax is imposed by this Ordinance or any other documentary stamp of insufficient value, or any forged or counterfeited stamp, die, plate or other article; or
- F. Wilfully remove or alter the cancellation marks of any documentary stamp, or to restore any such documentary stamp with intent to use or to cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale or give away any such altered or restored stamp to any person for use, or knowingly use the same; or
- G. Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which tax is imposed by this Ordinance, and the possession of such stamp shall be prima facie evidence of an intent to violate this clause; or
- H. Knowingly or wilfully prepare, keep sell offer for sale or have in his possession any forged or counterfeited documentary stamps; or
- I. Accept for recording in the office of any recorder of deeds any document upon which the realty transfer tax is imposed by this Ordinance without the proper documentary stamp or other evidence of payment of the tax affixed thereto as required by this Ordinance as is indicated in such document or accompanying affidavit.

§ 376-8. Penalty for violations.

Any person guilty of conduct prohibited in Section 7 shall upon conviction be punished by imposition of a fine of not more than \$100.

ARTICLE II

Partial Tax Relief for Senior Citizens

§ 378-9. Discount on real property taxes.

- A. An applicant who qualifies under §§ 378-10, 378-11 and 378-12 of this ordinance shall be entitled to a 5% discount on all real property taxes on the applicant's eligible property as defined in § 378-13 provided that the taxes are paid in full on or before October 31 of each year.
- B. This discount shall not apply to sewer.

§ 378-10. Qualifications for participation.

To qualify under this ordinance, an applicant must be 65 years of age or older at the beginning of the tax year for which application is made.

§ 378-11. Residency requirement.

The applicant shall have maintained his/her principal place of residence in the Town of Frederica for the five years immediately preceding the tax year for which application is being made. In addition, the dwelling for which the exemption is sought must be the principal place of residence of the applicant at the time of application and must have been the principal place of residence for the 12 months immediately preceding the tax year for which application is being made.

§ 378-12. Ownership of property.

- A. Title to the property for which the exemption is sought must be in the name of applicant or in the name of applicant and the applicant's spouse as reflected in the official records of Kent County.
- B. In the event that the ownership of the residence dwelling is shared by the applicant and spouse with others who do not qualify for participation in this program, then the exemption permitted herein shall apply only to the proportionate share of the residence dwelling owned by the applicant and spouse.

§ 378-13. Eligible property.

- A. Property considered eligible for inclusion under this ordinance shall be only the residence dwelling owned by an eligible applicant and, if applicable, up to one acre of land upon which it is located.

- B. Land which has been included under the State of Delaware Farmland Assessment Act shall not be eligible for partial tax relief under this ordinance.

§ 378-14. Filing for exemption.

- A. Applicants or their legal agents must present proof of eligibility to the Clerk or his/her designee at the time of payment of the taxes.
- B. The Town Clerk or his/her designee shall determine whether the applicant qualifies for the deduction permitted by this ordinance.

§ 378-15. Appeals.

As applicant may appeal the disposition of a discount claim to the Mayor and Council. Appeal hearings will be scheduled at the convenience of the Mayor and Council.

Chapter 391

TREES

ARTICLE I

Removal of Dead or Damaged Trees

§ 391-2. Notice.

§ 391-3. Enforcement.

§ 391-1. Dead or diseased tree removal on private property

ARTICLE I

Removal of Dead or Damaged Trees

§ 391-1. Dead or diseased tree removal on private property.

The Town shall have the right to cause the removal of any dead or diseased trees on private property within the Town when such trees constitute a hazard to life and property or harbor insects or disease which constitutes a potential threat to other trees within the Town.

§ 391-2. Notice.

- A. The Town will notify, in writing, the owners of such trees of the requirement that removal is required. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice; however, a lesser time may be specified for removal when an imminent hazard to life or property has been determined to exist.
- B. Notice shall be sufficient if:
- (1) The notice is personally served upon an owner of such tree;
 - (2) The notice is left at an owner's dwelling house or usual place of abode when some person of suitable age and discretion then residing therein;
 - (3) The notice is delivered to an agent authorized by appointment or law to receive service; or
 - (4) The notice is mailed by certified mail to an owner's last-known address. When service is made in this manner, service is complete when it is signed for by the addressee, or by some person of suitable age and discretion acting as agent for the addressee, or with the word "unclaimed" or "refused" noted thereon by the postal

authorities. If such notice is returned "unclaimed" by the postal authorities, the Town shall cause the notice to be posted on the common entrance door or in a common area of the building.

§ 391-3. Enforcement.

- A. In the event of failure of the owners to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost of removal on the owner's' property tax notice, enter the cost as a municipal lien or utilize other methods of collection.
- B. In addition to the remedy specified in subsection (a) of this section, any owner who fails to comply with the notice sent pursuant to subsection (b) shall be punished by a fine of not more than \$100 for each offense.
- C. Each day that a violation occurs shall be a separate offense.

Chapter 399

UTILITY SERVICES, PAYMENT FOR

§ 399-1. Responsibility of property owners.

§ 399-5. Interest on past-due utility bills; Water turn-on fee.

§ 399-2. Turning water off.

§ 399-6. Billing for trash service.

§ 399-3. Abatements for water.

§ 399-7. Exemption for commercial business.

§ 399-4. Abatement for trash services.

§ 399-1. Responsibility of property owners.

Property owners shall be responsible for payment of user fees for water and trash. Payments can be accepted from tenants and/or renters. All bills will be tendered to the owners of the properties and payments.

§ 399-2. Turning water off.

Water may be turned off for periods of 14 days or more, provided at least three working days' notice, in writing has been given to Town Hall and the owner is present for the turn off. Resumption of water service will be done and/or the same provisions. There will be a charge of \$10 for turning water off (this must be paid prior to turn the water back on).

§ 399-3. Abatements for water.

Upon written application by the property owner(s), abatements for water shall be in effect for suspension of services in increments of not less than 30 days each. The abatements shall be in increments of not less than 1/3 of the quarterly fee for said services for each thirty-day increment.

§ 399-4. Abatement for trash services.

There shall be no abatement for trash services whatsoever, except by appeal to and passed by Council, in the case of a hardship. An affidavit must be signed by the property owner stating that the service is not being used; in case of falsification, a fine of not more than \$100 nor less than \$25 may be imposed on the party who signed the affidavit.

§ 399-5. Interest on past-due utility bills; water turn-on fee.

When a utility bill shows one full quarters due, interest shall be charged on the previous balance, a ten-day grace period will be granted, prior to turning the water off and a fee of \$50.00 shall be charged and must be paid with prior balance and interest before water is turned back on.

§ 399-6. Billing for trash services.

All occupied homes will be billed for trash services even if they dispose of their own trash, except on in the case of apartment buildings or complexes which have made prior arrangements for private disposal with the Town offices.

§ 399-7. Exemption for commercial businesses.

Commercial businesses will be exempt from trash fees unless the Town provides the services by separate contract with the business.

Chapter 406

VEHICLES, ABANDONED

§ 406-1. Parking on public streets prohibited.

§ 406-4. Violations on private property; Enforcement; penalties.

§ 406-2. Parking on private property prohibited.

§ 406-5. Liability for costs of storage and Removal; manner of disposal.

§ 406-3. Violations on public streets; enforcement; penalties.

§ 406-1. Parking on public streets prohibited.

It shall be unlawful for the owner or operator of any vehicle which displays license plates that are at least 30 days expired, which displays no license plates, or which is in such a state of disrepair as to be incapable of being operated in the manner for which it is designed to be parked on the public streets of the Town in excess of 24 hours.

§ 406-2. Parking on private property prohibited.

It shall be unlawful for the owner of any vehicle, motor vehicle, trailer, recreational vehicle or boat

- (a) which displays a license plate that has been expired for at least 30 days,
- (b) which displays no license plates, or
- (c) which is in such a state of disrepair as to be incapable of being operated in the manner for which it is designed

To be located on private property in the Town for more than thirty (30) days unless the owner thereof shall keep the vehicle, motor vehicle, trailer, recreational vehicle or boat fully covered by a cover specifically designed and suitable for the vehicle being covered. An ordinary tarp or similar covering does not constitute a cover specifically designed and suitable for the vehicle being covered. The vehicle must be fully covered with none of the vehicle's parts being visible. In no event such more than two such vehicles, motor vehicle, trailer, recreational vehicle or boat be located on any

parcel of land.

§ 406-3. Violations on public streets; enforcement; penalties.

- A. If an abandoned vehicle is on a public street, the Town will affix a sticker or tag showing the time and date of the affixing, advising the owner that if the vehicle is not removed within 72 hours of the time and date of the affixed sticker or tag, the vehicle will be removed from the public street and that a fine may be imposed.

§ 406-4. Violations on private property; enforcement; penalties.

- A. If an abandoned vehicle is on private property, the Town will notify the owner of the vehicle, the owner of the property, and the occupant of the property by certified mail, return receipt requested, sent to the last known address of such persons, directing removal of such vehicle within seven days of the date of the mailing.
- B. If the vehicle located on private property is not removed within seven days or returns to the same property within 60 days, the Town will affix a sticker or tag showing the time and date of the affixing, advising the owner that if the vehicle is not removed within 24 hours of the time and date of the affixed sticker or tag, the vehicle will be removed to a storage area designated by the Town and that a fine may be imposed.
- C. If an abandoned vehicle remains on private property after 24 hours have elapsed since the sticker or tag was affixed to the vehicle, the owner of the vehicle, the owner of the property and the occupant of the property shall each be punished for that violation by a fine of \$100.

§ 406-5. Liability for costs of storage and removal; manner of disposal.

Removal and storage of said vehicle shall be at the expense of the owner or owners. Disposal will be effected in accordance with applicable law.

Chapter 417

VEHICLES, RECREATIONAL

§ 417-1. Obstructions prohibited.

§ 417-3. Violations and penalties.

§ 417-2. Use of temporary residence restricted.

§ 417-1. Obstructions prohibited.

All travel trailers and/or recreational vehicles stored or parked on private residential property must not obstruct the vision of others attempting to exit a neighboring driveway.

§ 417-2. Use as temporary residence restricted.

A travel trailer or recreational vehicle stored or parked on private residential property may not be used as a temporary residence for the property owner or visitors for more than two consecutive weeks per year, unless approved in writing by the Council.

§ 417-3. Violations and penalties.

Any infraction of the above rules shall incur a \$25 per day fine as long as it remains uncorrected after a deadline given by certified mail.

Chapter 425

WATER

ARTICLE I

Water Meter Installation

§ 425-1. Time frame for installation.

§ 425-2. Sewer and water users outside Town limits.

§ 425-3. Responsibility for expenses of water and sewer lines.

§ 425-4. Types of meters.

§ 425-5. Inspection of installations and connections.

§ 425-7. Water connection, meter and sprinkler service fees; water meters.

§ 425-8. Public water system connections.

§ 425-9. Applications and deposits.

§ 425-10. Service discontinuance fees.

§ 425-11. Service lines from curb to premises.

§ 425-12. Operation of public system.

§ 425-13. Water Impact fees and Charges

ARTICLE II

Water System Connections, Operation

§ 425-6. Water Service Charges Established.

ARTICLE I

Water Meter Installation

§ 425-1. Time frame for installation.

Water meters shall be installed at the time of any new construction tap-ins to water and sewer lines. Each single family residence, multi-family unit, business, industry or institution shall be metered individually.

§ 425-2. Sewer and water users outside Town limits.

- A. Any new municipal sewer and water users outside the municipal limits of Frederica shall have water meters installed and pay the ordained tap-in and impact fees, in addition to bearing the expense of extending water and sewer lines beyond Town limits.

- B. Any water and sewer users outside the Town limits shall sign a commitment to annex into the Town of Frederica when annexation becomes available to them.

§ 425-3. Responsibility for expenses of water and sewer lines.

Any new water and sewer users with the Town limits shall be responsible for the expense of taking water and sewer lines inside the property line.

§ 425-4. Types of meters.

Water meters must be of the make and model approved for use by the Town of Frederica they must be purchased from the Town.

§ 425-5. Inspection of installations and connections.

All meter installations and connections to Town water lines must be inspected and approved by the Town of Frederica before the meters and connections may be covered over.

ARTICLE II

Water System Connections, Operation and Charges

§ 425-6. Water service charges established.

Base and usage charges shall be collected from the users of the public water system which proportions the cost of operation, maintenance and improvements to the public water system to the users of the public water system as well as supports payments to debt service and maintains reserve and contingency funds based on their water consumption, including replacement costs. These rates shall be reviewed annually.

- A. Base and usage charges.
- (1) The base water service charge shall consist of a fixed amount, not associated with any flow allowance, deemed to be an availability charge assessed to all single-family residences, apartment units, businesses, institutions, and any other class of users not mentioned. It shall be determined by the Town Council to be sufficient to reimburse the Town for costs associated with water debt service and the maintenance of reserve and contingency funds or any other charges deemed fixed by the Town Council. This rate shall be \$15 per month or \$45 per quarter.
 - (2) The Town usage charge shall consist of an amount set by Town Council sufficient to reimburse the Town for costs associated with the cost of operating

the water utility which includes personnel costs, insurance, general and administrative costs and costs specific to the utility such as chemicals, line repair, etc. This rate shall be set \$3.25 per 1,000 gallons.

B. Meter rate schedule.

- (1) The base charge shall apply to all metered users with a flow rate of up to 250 gallons per day or 91,250 gallons per year of the previous calendar year. Metered users with flow rates exceeding 250 gallons per day or 91,250 gallons per year shall be assessed an additional base charge for each 250 gallons per day or 91,250 gallons per year. If this data is unavailable for calculation, partial calendar year data, historical data or engineering estimates may be used to calculate the base charge until such time as calendar year data is available. All multiplier calculations shall be rounded to the nearest even number. If two or more residences, apartments, businesses, institutions, or any other class of users not mentioned are connected through a single meter, the base amount shall be computed as though each user was a separate property or user-with a separate connection. All units connected to the system shall be billed for no less than one base charge.
- (2) Where there is no water meter for residential users, the Town shall bill the usage fee based on the average flow of metered residential users on the system. Users with no water meters may be compelled by the Town to install such meters at their cost.

C. Billing. Water meters shall be read by the Town and bills submitted quarterly to each user for usage during the previous quarter (three months).

D. Rates for out-of-Town users. Nothing herein shall require the Town to charge the same water rates or other water system charges to users located outside the corporate limits of the Town as those charges to users located within the corporate limits of the Town.

E. Service charge for out-of-Town users. Water service charges to out-of-Town users shall be at a rate of 1.33 times the in-Town user rate established by the Town unless special services agreements are executed between the Town of Frederica and the user.

F. Mailings. Bills for water service charges shall be mailed to the address of the property owner. Property owners may add a secondary address for bills to be sent to with written notification. Failure to receive a bill as a result of incorrect address or otherwise shall not excuse nonpayment of a bill or extend the time for payment.

G. Due date. Bills for water service charges shall be payable not less than 30 days after

the date of billing for the period.

- H. Penalty. There shall be assessed a late payment charge of 2% per month on all unpaid amounts due and owing the Town commencing at least 30 days after the bill is issued by the Town.
- I. Water meter calibration fee. A water meter calibration of \$50 shall be paid to the Town of Frederica for the cost of those services associated with determining and/or verifying the calibration of water meters. The Town of Frederica has meters tested and determines the accuracy of said meters based on the American Water Works Association (AWWA) standard of 2% tolerance. Meters testing between 98% and 102% are deemed to be accurate. Said fee shall be refunded if, after verification of calibration, it is determined that the meter was incorrectly measuring flow in the Town of Frederica. Billing for inaccurately billed water or sewer service shall be estimated from previous readings, and any adjustments made following the next meter reading.
- J. Fire service connections. Fire service connections shall be metered and shall be addressed separately based on the size of the fire service line and charged according to the fee specified in Chapter 180, Municipal Fees.
- K. Sprinkler charges. Quarterly sprinkler charges shall be set forth in Chapter 180, Municipal Fees. New customers are required to install a detector check valve on the sprinkler system line.

§ 425-7. Water connection, meter and sprinkler service fees; water meters.

- A. Fees.
 - (1) The water connection fee shall be assessed in an amount equal to the actual cost of installation in instances where the cost of said installation exceeds the established minimum service connection fee of \$1,000.
 - (2) All service connection fees for multifamily residential units served through a common service pipe with master or gang type metering, such as an apartment, townhouse, condominium or other dwelling unit, shall be assessed a separate fee per unit.
 - (3) Fire service connections shall be exempt from the above referenced service connection fee and shall be addressed separately as outlined below:

| Size of Fire Service Line (inches) | Fee |
|---------------------------------------|--------------------------------------|
| 4 | \$3,000, plus actual cost to install |

| | |
|----|--------------------------------------|
| 6 | \$3,500, plus actual cost to install |
| 8 | \$4,000, plus actual cost to install |
| 10 | \$6,000, plus actual cost to install |

- B. Water meters must be of the make and model approved for use by the Town of Frederica; they may be purchased from the Town.
- C. All meter installation and connections to the public system must be performed by a licensed plumber, inspected and approved by the Town of Frederica before meter pits and connections may be backfilled.
- D. When a water meter is installed on private property within the Town of Frederica, it becomes the property of the Town of Frederica.

§ 425-8. Public water system connections.

- A. Unauthorized connection to public system prohibited. No person shall cause any building to be connected, or permit any building to be connected, or allow any building to remain connected, or shall connect any building to the public water supply system of the Town of Frederica, while any portion of the water supply system of said building is connected to any other source of water, including a private well; provided, however, that nothing herein shall prevent a property owner from maintaining an existing private well on the premises for the sole purpose of providing water for the exterior irrigation purposes, as long as there is no cross-connection between the public water supply system of the Town of Frederica and said preexisting well.
- B. Cross-connection between public system and other sources prohibited. There shall be no cross-connection between the public water supply system of the Town of Frederica and any other source of water.
- C. Disconnection from public system to connect to private system prohibited. No person whose building or property is connected to the public water supply system of the Town of Frederica shall voluntarily cause or permit said building or property to be disconnected from the public water supply system of the Town of Frederica and connected to a private well.
- D. Only authorized persons to reconnect water service. No person other than those persons under the direction of the Town Council of the Town of Frederica shall reconnect water service following disconnection pursuant to § 425-10 herein. Any person violating this section shall be guilty of a violation and upon conviction in a court of competent jurisdiction shall be fined not less than \$50 nor more than \$250 and shall pay the costs of prosecution of each offense.
- E. Mandatory connection to public system:

- (1) All owners of improved property in the Town of Frederica abutting upon but not presently connected with the existing water system are hereby required to connect their premises to the water systems within 90 days from the effective date of this chapter. All such owners of improved property which shall abut upon future water improvements when constructed shall thereupon connect therewith. All such owners of unimproved property which shall be improved in the future shall connect promptly with any such water then or subsequently abutting thereon.
- (2) Property not connected to the water system shall be subject to the minimum water charge beginning with the quarter next following the passage of 90 days from the time the water system is available to the property, whether or not the property is connected to the system.

F. Distribution system requirements:

- (1) Hydrant spacing, location and flows shall meet the Delaware State Fire Prevention Regulations, Latest Edition.
- (2) Water distribution mains supplying hydrants shall be a minimum of six inches.
- (3) All water distribution system main must be looped in such a way that one valve will not shut off the water supply.

§ 425-9. Applications and deposits.

A. Application for service connection:

- (1) Any property owner desiring the introduction of a service line or lines from the Town's main into his or her premises must first make a written application, on the form furnished by the Town, at least two weeks before service is required, stating the street and lot number or location, the name of the owner and tenant, the purpose for which service will be used, the guaranty that such service will continue for at least one year and the exact time when the trench from curb to property will be ready for making the connection.
- (2) The application must be signed by the owner of the premises or his duly authorized agent, which application shall, together with the rules and regulations, regulate and control the service of water to such premises.

B. Application for water service:

- (1) The prospective customer or the duly authorized agent thereof will make a signed application for water service upon the Town's form provided therefor, and, if approved by the Town, water will be supplied in conformity with the class, scope and type of service appropriate to the customer's premises, as set forth in the application, and only at the rate schedule applicable thereto. The customer's application for service, duly approved by the Town, together with these rules and regulations, constitutes the contract between the customer and the Town; nevertheless, the acceptance and use of water service at any premises by an occupant, without formal application therefor, obligates the occupant as the contractual party, and he is bound thereby as the customer.
- (2) A new application must be made to the Town and approved thereby upon any changes in the identity of the customer and any premises or in the service as described in the appurtenant.
- (3) Service will be renewed under a proper application when the conditions under which such -service was disconnected are corrected and upon payment of all charges provided in the schedule of water rates and charges or in the rules and regulations.
- (4) When application is made for temporary use of water, requiring a temporary connection, the cost of installation and removal of such temporary facilities shall be by the applicant, and the applicant shall pay the temporary use fee provided for herein for each period of 90 days.

C. Deposits.

- (1) The Town reserves the right at any time to require a deposit from any regular

service customer in an amount equal to the estimated charges for any single billing period, not exceeding three months, plus one month, as security for payment of service bills as accrued whenever the credit of the customer has not been established or thereafter properly maintained as evidence by service discontinuance.

- (2) Deposits may be returned to the depositor when he has established his credit to the satisfaction of the Town.
- (3) The deposit will bear no interest.
- (4) Any customer having a deposit shall pay bills for water service as rendered, in accordance with the rules and regulations, and the deposit shall be considered as payment on account of a bill during the time the customer is receiving water service.

§ 425-10. Service discontinuance fees.

- A. Water will be turned off any premises upon a written order of the customer without in any way affecting the existing contract.
- B. Service under normal contractual application or special contract, including private fire protection service, may be discontinued after due notice for any of the following reasons as may be applicable:
 - (1) For misrepresentation in an application as to property, interest or service.
 - (2) For the use of water for any other property or purpose than that described in the application.
 - (3) For tampering with any service pipe, meter, curb stop or seal or any other appliance of the Town.
 - (4) For willful or careless waste of water by reason of improper, impaired or deteriorated piping, fixtures or otherwise.
 - (5) For nonpayment for any water system charges or fees when due.
 - (6) In case of unreported vacancy of premises.
 - (7) For violation of any rule of the Town.
 - (8) Refusal of access to the premises to inspect, read, maintain or remove meters.
 - (9) Refusal to conserve water during periods of advertised restricted supply.

- (10) Failure to pay water bills or charges incurred at another premises.
- (11) Existence of any cross-connection at a premises.
- C. As necessity may arise in case of break or rupture of any main, any emergency or other unavoidable cause, the Town shall have the right to temporarily suspend the water supply in order to make necessary repairs, connections or installations; however, the Town will use all practicable and reasonable measures to afford, whenever possible, advance notice of such interruption of service. However, the Town will not be liable for any damage or inconvenience suffered by customers or occupants of the premises supplied, not in any case with the Town be liable for any claim against it at any time for interruption in service, inadequate supply or pressure or quality of water for any cause reasonably beyond its control.
- D. A fee of \$50, payable in advance, shall be made for turning on water in restoration of service after discontinuance for late payment; the disconnection for non-payment will void any prior payment agreements and full payment will be required before reconnect.

§ 425-11. Service lines from curb to premises.

- A. All service lines from the curb to the premises shall be installed at the expense of the customer and remain an appurtenance of the premises to be supplied accordingly maintained in proper condition. The service line shall comply with the Town's specifications for material and location or otherwise have the Town's approval. The service line shall be laid at a minimum depth of 30 inches throughout its length and shall terminate in a brass stop of an approved pattern within the premises, as a point easily accessible to the occupant at all times, for protection against leaks and freezing in piping of the premises and to facilitate repairs thereto.
- B. All leaks in the customer's service lines shall be promptly repaired by the customer. Upon failure to make repairs with reasonable dispatch after due notice, the Town may discontinue water service, which will not be restored until all proper and necessary expenses incurred by the Town in the discontinuance and restoration of water service to the premises involved shall have been paid to the Town by the offending customer.
- C. Under no circumstances will the Town be responsible for maintenance of the service lines or any piping or fixture on the premises supplied, other than the Town's own specific property, or for damage caused by water escaping therefrom, and the customer shall invariably comply with state and municipal regulations with reference thereto and shall make any changes therein necessitated by reason of change of grade in a street or sidewalk, relocation of the distribution main or otherwise.
- D. Where more than one occupant of a premises is supplied through one common service line, any violation of the rules and regulations by any one occupant shall be deemed a

violation by all, and the Town may take necessary action accordingly, as provided by the rule and regulations, except that water service to the premises shall not be discontinued to the customer until the customer shall be given a reasonable opportunity to install a separate service line for each occupant.

§ 425-12. Operation of public system.

- A. Opening and closing valves. The operation of a service stop or valve is absolutely prohibited to anyone other than an employee of the Town in the regular line of duty, except that a regular licensed plumber will be permitted to operate the same when necessary in conjunction with his proper work on the relevant premises, but he shall invariably leave the stop or valve in the same position as found.
- B. Restriction of water use.
 - (1) The Town shall have the right to reserve a sufficient supply of water at all times in the water towers and reservoirs to provide for fire protection and other emergencies or to restrict or regulate the quantity of water used at the customer's premises in cases of scarcity or whenever the public welfare may require such action.
 - (2) The Town reserves the right to suspend the use of fountains and hoses for sprinkling streets or yards, washing cars, etc., whenever in the opinion of the Town public exigency requires it. The Town shall not be liable for failure to supply water at any time, provided that such failure shall not be due to negligence upon its part.
 - (3) The Town Manager shall act on behalf of the Town to declare a water emergency and to impose water use restrictions. He shall notify the Town Council of any such action within 24 hours after taking such action.

§ 425-13. Water impact fees.

- A. Purpose. The purpose of this article is to establish appropriate provisions for the equitable distribution of the debt service associated with the water system improvements of the Town and to be sure that the cost of such debt service is proportionally borne by those who receive of the water system improvements constructed with the associated bond revenues.
- B. Definitions. As used in this article, the following terms shall have the meanings indicated:

ANNUAL PRODUCTION DAYS - The number of days per year a structure is open for business as documented by verifiable records.

EQUIVALENT DWELLING UNIT (EDU): A term used to express the load produced on a water system approximately equal to one dwelling place of 225 gallons per day.

IMPACT FEE - A one-time fee imposed by the town upon the owner(s) of any new, remodeled, restored, or enlarged residential, commercial, institutional or industrial structure or structures or any combination thereof which results in an increased water flow from the existing water distribution system.

WATER FLOW - Shall be determined by water consumption in accordance with water meter readings.

C. Fees. All developers or owners of newly constructed structures or enlarged/improved existing structures requiring water service shall pay prior to the issuance of a building permit a fee per EDU to the Town. Council shall set the amount if the fee on an annual basis during the budget process. Neither the Code Off. nor any other Town representative shall issue a certificate of occupancy until such fee is paid.

D. Assessment of impact fees:

(1) Impact fees shall be assessed as outlined below:

| Type of Structure | Assessment |
|--|----------------------------------|
| A. Any single-family residential dwelling with one kitchen and one or more baths. | 1.0 EDU |
| B. Any multifamily residential dwelling with one kitchen and one or more baths (per unit). | 1.0 EDU |
| C: Any commercial, institutional, or industrial structure. | Based on water Consumption EDU 1 |

(2) The number of EDUs for structures under category C shall be estimated by the Town engineer in accordance with published flow data. After one year of operation said structures shall be evaluated and the number of EDU's recalculated and the number of EDU's recalculated based on the following formula:

Water Flow per year in gallons + (production days x 225 gal/day/EDU)

(3) Results will be rounded up to full number.

(4) The impact fee adjustment shall be billed or refunded at the time of the next regularly scheduled billing.