

CHAPTER 14  
FORMERLY  
HOUSE BILL NO. 4  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO REINCORPORATE THE TOWN OF GEORGETOWN.

WHEREAS, it is deemed desirable that the Charter of the Town of Georgetown be consolidated into one complete Act and in certain respects amended and revised.

NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend the Charter of the Town of Georgetown by deleting the current text in its entirety and making insertions as shown by underlining as follows:

AN ACT TO REINCORPORATE THE TOWN OF GEORGETOWN:

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PREAMBLE

We the people of the Town of Georgetown, under the constitution and laws of the State of Delaware, in order to secure the benefits of local self-government and to provide for an open, honest and accountable council-manager government do hereby adopt this charter and confer upon the Town the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

Article I

Incorporation, Territorial Limits, and Annexation

- 1.1 Incorporation

The inhabitants of the Town of Georgetown within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided are hereby declared to be a body politic incorporated in law and equity and shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of judicature whatsoever by the corporate name of 'Town of Georgetown.'

### 1.2 Territorial Limits

The boundaries of the Town of Georgetown are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Sussex County in the State of Delaware (official recorded copies to be kept by the Town Clerk) as presently exists and as hereinafter amended.

In addition to the aforesaid, the Territorial Limits of the Town of Georgetown shall also include all land annexed by the Town of Georgetown pursuant to Section 1.3 of this Charter. The Council may, at any time hereafter, cause a survey and plot to be made of the Town, and the survey and plot, when made and approved by the Council, shall be recorded in the offices of the Recorder of Deeds in and for Sussex County, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

### 1.3 Annexation Of Territory

The Town Council of the Town of Georgetown shall have the power to annex, by ordinance, any territory contiguous to the Town of Georgetown whenever requested to do so by a majority of property owners of the area included within the territory proposed to be annexed. Such ordinance shall: identify criteria for annexation petitions, outline annexation procedures, requirements for special (referenda) elections, and ensure an adequate level of service (LOS) is available for area requesting annexation.

## Article II

### Powers of the Town – Mayor & Council

#### 2.1 Code of Ethics

The Town of Georgetown, in order to ensure fair, ethical and accountable local government, requires that all public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, The Town of Georgetown has adopted a Code of Ethics to encourage public confidence in the integrity of local government and its fair and effective operation.

Annually, Town Council members shall sign an Affirmation of the Code of Ethics as prescribed by the Town of Georgetown at the Council meeting in May each year when the Town Council elects the Secretary and Vice Mayor, as an acknowledgement of each Council member's continuing commitment to abide by the principles of this Code.

#### 2.2 Duties Of The Mayor

(a) The Mayor shall be a voting member of the Town Council and shall attend and preside at meetings of the Town Council, represent the Town in intergovernmental relationships, appoint with the advice and consent of the Town Council the members of citizen advisory boards and committees, appoint the members and officers of Town Council committees, assign subject to the consent of Town Council agenda items to committees, and perform other duties specified by the Town Council. The Mayor shall be recognized as head of the Town government for all ceremonial purposes and by the Governor for purposes of military law but shall have no administrative duties.

(b) The Mayor may, for any reasonable cause, by and with the consent and upon the address of a majority of all the members of the Town Council, remove from office any person appointed by him/her or any of his/her predecessors. The person against whom the Council may be about to proceed shall receive five (5) calendar days written notice thereof, accompanied by a statement of the cause alleged for the removal and shall be accorded a full and fair hearing, if such a request is received by the Mayor by certified mail with return receipt requested within ten (10) calendar days following the date that notice or removal is received by such person.

(c) It shall be the duty of the Vice Mayor of the Town Council, in the absence of or inability of the Mayor to act, to preside at all meetings of the Town Council in the event of absence of the Mayor and perform such other duties and to have such other powers of the Mayor as are prescribed by the Charter of the Town of Georgetown or by any ordinance of the Town Council.

### 2.3 Secretary of the Town Council

(a) The Secretary shall have charge and oversight of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. The Secretary shall keep a full and complete record of all the transactions in the Town of Georgetown. The Secretary shall file and keep in a safe place the seal of the Town of Georgetown and all papers and documents arising out of the proceedings of the Town Council relative to the affairs of the Town. The Secretary shall deliver the same to his/her successor in office. The Secretary shall attest the seal of the Town of Georgetown when authorized by the Town Council and shall perform such other duties and have such other powers as may be prescribed by ordinance.

(b) All books, records and journals of the Town overseen by the Secretary may, in the presence of the Mayor, Vice-Mayor, any member of the Town Council or Town Manager, may be inspected at any time, or times, as may be convenient and will not interfere with the regular routine of the business of the Town.

(c) All books, records, papers and documents overseen by the Secretary shall be open for inspection by members of the Town Council.

### 2.4 Enumeration Of Powers

(a) The Town shall have and enjoy all the powers possible for a municipal corporation to have under the Constitution and laws of the State of Delaware, as fully and completely as though they were specifically enumerated in this Charter.

(b) Not by way of limitation upon the scope of the powers vested in the Town Council to exercise all powers delegated by this Charter or general law to the Town (except as may expressly appear herein to the contrary), but, rather by way of enumeration and example, the Town Council is vested by this Charter with (among others) the following Powers:

(1) To prevent public vice, drunkenness and immorality.

(2) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants.

(3) To prohibit all gaming and fraudulent devices.

(4) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games.

(5) To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair or replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, sewer, drain, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb, or gutter or portion thereof in the Town, to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; to enter into contracts or agreement for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare within the Town.

(6) To regulate or control activities on Sunday.

(7) To establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same.

(8) To locate, regulate, license, restrain or require the removal of any businesses or buildings or conditions detrimental to the public health or constituting a public nuisance or of an offensive or a noxious nature.

(9) To enforce the removal of ice, snow or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners.

(10) To prohibit, remove or regulate the erection of any stoop, step, platform, bay window, cellar, gate, area, descent, sign, post or any other erection nor projection in, over, upon or under any street, highway, alley, lane, water course, park, lake, sidewalk, crosswalk, sewer, drain, aqueduct or pipeline of the Town.

(11) To define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare.

(12) To provide an ample supply of potable water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in or about the collection, storage, purification, conveyance, or distribution or sale of water; to regulate and prescribe for what public or private purposes the water furnished by the Town of Georgetown may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury, or damage to or interference with the waste system or the equipment of the Town, to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the municipality itself.

(13) To provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town; to regulate

and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plan or facilities; to furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits. In the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefore of the Town itself.

(14) To provide, construct, extend, maintain, manage and control the plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for lighting the streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, Wharves, docks, public buildings or other public places in the Town, and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessarily proper to light the Town, and to furnish proper connections for electric current and gas to the properties of the inhabitants of the Town who may desire the same; to regulate and prescribe for what private or public purpose the current or gas furnished by the Town may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any willful or negligent injury or damage to or interference with the electric or gas system or systems of the Town; to furnish or refuse to furnish electric current or gas from the Town's system or systems, to places and properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness by the Town itself.

(15) To fully control within the Town the drainage of all water and to that end to alter or change the course and direction of any natural or man-made water course, runs or rivulets within the Town, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town.

(16) To provide, construct, extend, maintain, manage and control embankments, or fills for the preservation of any highland within the limits of the Town and contiguous thereto to the end that the same may be preserved, property protected that the general public might enjoy the use thereof.

(17) To grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such consideration as the Town Council shall deem in the best interests of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, lakes, sidewalks, crosswalks, and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, cable, television, railroad excepting railroads or railways engaged in Interstate Commerce, bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of

transmitting the same from or through the Town to points outside the limits thereof, and for the purpose of vending any article or merchandise or service upon or from any vehicle upon any present and future street, highway, lane, alley, etc.; provided that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever.

(18) To regulate and control the exercise of any license or franchise mentioned in Section 2.4 of this Charter, or intended so to be.

(19) To direct, regulate and control the planning, rearing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and grounds of the Town and to authorize or prohibit the removal or destruction of said trees.

(20) To direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter.

(21) To provide for or regulate the numbering of houses and lots on the streets and the naming of streets and avenues.

(22) To regulate, control or prevent the use or storage of gun powder, fireworks, tar pitch, resin, and all other combustible materials and the use of candles, lamps, and other lights in stores, shops, stables and other places; to suppress, remove or secure any fireplace, stove, chimney, oven, broiler, or other apparatus which may be dangerous in causing fires.

(23) For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the manner of building or removal of dwelling houses and other buildings; to establish a Code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material; and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of 22 Del.C. Ch. 3 as amended.

(24) To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town which shall be used as a place of detention for persons convicted of violations of law or ordinance, or for detention of persons accused of violations of law or ordinances, for a reasonable time in cases of necessity prior to hearing and trial; provided that any correctional institution located in Sussex County may be used for any such purpose.

(25) To acquire, build, erect and maintain buildings and facilities necessary or required for housing, storing and or equipping the departments of the Town.

(26) To regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, beanshooters, and any other devices which may cause bodily injury or injury or harm to property; and to regulate or prevent the use of fireworks, bombs and detonating works of all kinds.

(27) To provide for the punishment of a violation of any ordinance of the Town by fine or imprisonment, or both.

(28) To provide for the organization of a fire department and the control and government thereof; to do all things necessary for the prevention or extinguishment of fires; and at the discretion of the Town Council, to contribute, donate or give an amount or amounts not to exceed in the total during any fiscal year three percent (3%)



of the total taxes levied on real estate to any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating firefighting equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable.

(29) To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of the abatement of nuisances and the like, laying out and repairing sidewalks, curbs or gutters, or other charges due the Town and to sell the same.

(30) To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; provided, however, that the amount to be raised from this source shall not exceed in any one year the sum of more than ten percent (10%) of the total assessed value of all taxable real estate and the improvements thereon: and provided further that there shall be no limitation upon the amount which may be raised from the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether hereinbefore or hereafter incurred.

(31) To levy and collect taxes upon all telephone, power poles, pipelines, rail lines, or other constructions or erections of a like character, erected within the limits of the Town, together with the wire or other appliances thereto or therein attached; expressly excepting all telephone, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in Interstate Commerce for any and all purposes and to this end may at any time direct the same to be included in or added to the Town assessment. In case the owner or lessee of such constructions or erections, wires or other appliances shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies provided for the collection thereof set forth in Section 5.6.1 of this Charter, the Town Council shall have the authority to cause the same to be removed.

(32) To license, tax and collect fees annually for any and all municipal purposes (including the cost and expense of advertising the Town) of such various amounts as the Town Council from time to time shall fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of the Town; provided, however, that nothing contained herein shall be so construed as to make it mandatory upon any resident of the State to apply for a license in order to sell in the Town any farm produce or products grown upon a farm owned by the vendor or any member of his family with whom he resides.

(33) To determine from which authorized source and in what proportion taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the Town and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness.

(34) To provide for the collection of and disbursement of all moneys to which the Town may become entitled by law, including licenses and fines where no provision for the collection and disbursement thereof is otherwise provided in this Charter.

(35) To borrow money in the name of the Town for any proper municipal purpose and in order to secure the payment of the same to issue bonds or other forms or kinds of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Town Council shall select for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all state, county or municipal taxes; provided,

however that in no event shall the indebtedness of the Town for any and all purposes at any one time exceed in the seventy-five percent (75%) of the assessed value of all real estate in the Town subject to the assessment for the purpose of levying the annual tax herein before mentioned. Debt which has been advance refunded with proceeds of the advance refunding sufficient to pay principal and interest on the debt to the first allowable call date having been irrevocably deposited in trust with a Delaware bank irrevocably with instructions to make no investment of the funds deposited other than in guaranteed or direct obligations of the United States shall not be counted as indebtedness.

(36) To acquire, and/or to vacate the use of lands, tenements, personal property, easements, rights of way, or any interest in property, either within or without the limits of the Town, by way of condemnation and eminent domain for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred upon or delegated to The Town of Georgetown by this Charter. Proceedings by way of condemnation in any case shall be as prescribed in 10 Del.C. Ch. 61, as amended.

(37) To appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency.

(38) To provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge, or other amount due the Town by the performance of labor or service for the Town by any person owing the same.

(39) To inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena.

(40) To establish by ordinance duly adopted pursuant to this Charter a Pension Plan or a Health and Welfare Plan, or both, for the employees of the Town under such terms and conditions as the Town Council, in its discretion, any deem most appropriate; provided, that the method of funding may, if deemed desirable by the Town Council, be accomplished through an insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of the elected members of the Town Council.

(41) To borrow money in anticipation of revenues on the full faith and credit of the Town of Georgetown sum or sums not exceeding One Million Dollars (\$1,000,000.00) in any one year when, in the opinion of a majority of the Town Council of the Town of Georgetown, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of the Town of Georgetown, duly authorized by Resolution adopted by the Town Council of the Town of Georgetown, and signed by the Mayor of the Town of Georgetown and attested by the Secretary of the Town Council with the corporate seal affixed, and no officer or member of the Town Council shall be liable for the payments of such notes because it is signed by them as officers of the Town and is authorized by the Resolution of the Town Council; provided, however, that the total sum outstanding at any one time shall not exceed One Million Dollars (\$1,000,000.00); and provided further, that any sum of money so borrowed, as aforesaid, in any fiscal year, shall be paid from the general fund of the Town and shall be completely repaid at any time, but must be completely paid at the end of ten (10) fiscal years following the first fiscal year when said sum or sums were borrowed, within interest thereon; and provided that such ad valorem taxes shall be levied as is necessary to pay the principal or the interest on said bonds as is required without regard to any other limitation concerning the maximum

rate of taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof.

(42) To make, adopt and establish all such ordinances, regulations, rules and by-laws not contrary to the laws of this State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants; provided, however, that any ordinance relating to the public health of the Town and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same shall apply not only within the corporate limits of the Town but as well to all areas and persons outside the Town within one (1) mile from said limits.

(43) The Town Council of the Town of Georgetown, shall have the power to levy a Realty Transfer Tax as authorized under 22 Del.C. §1601 (a) through (c) as amended.

(c) All provisions of this Section and any other Section of this Charter limiting the amounts of indebtedness to be incurred or taxes to be levied by the Town Council shall not apply to any indebtedness incurred or any special ad valorem taxes, special taxes, or ad valorem taxes levied pursuant to or in connection with Section 5.10 of this Charter.

#### 2.5 Organization And Annual Meeting Of Council

(a) At the second regular meeting of the Town Council following the Annual Municipal Election, the duly elected officers shall take the Oath of Office, being sworn or affirmed by a notary public to perform faithfully and impartially the duties of their respective offices with fidelity and assume the duties of same office.

(b) At the annual meeting, held on the second regular meeting following the Annual Municipal Election, the Town Council shall organize and elect a Vice-Mayor, who shall hold office for the term of one (1) year or until his/her successor shall be duly elected. The Town Council shall likewise select a Secretary from their own number to serve until the organization meeting after the next Annual Municipal Election.

#### 2.6 Procedure.

2.6.1 Meetings. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of two (2) or more Council members and, whenever practicable, upon no less than twenty-four (24) hours public notice and to each member. Except as allowed by state law, all meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership, any matter which would tend to defame or prejudice the character or reputation of any person, if the general subject matter for consideration is expressed in the motion calling for such session and final action on such motion is not taken by the Council until the matter is placed on the agenda.

2.6.2 Rules and Journal. The Town Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

2.6.3 Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Three (3) members of the Council shall constitute a quorum, but a smaller number may

adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

#### 2.7 Vacancies, Forfeiture of Office; Filling of Vacancies

2.7.1 Vacancies. The office of a Town Council member shall become vacant upon the Council member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

2.7.2 Forfeiture of Office. A Town Council member shall forfeit that office if the Town Council member:

- (1) Fails to maintain the bona fide residency requirements as defined in Section 3.2 (g),
- (2) Violates any express prohibition of this charter,
- (3) Is convicted of any felony or crime involving moral turpitude, or any crime of dishonesty, or any crime involving fraud, bribery or embezzlement.

(4) Fails to attend four (4) consecutive regular meetings of the Council without being excused by the Council.

2.7.3 Filling of Vacancies. A vacancy in the Town Council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than sixty (60) calendar days upon the occurrence of the vacancy, but the Town Council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the Town Council fails to do so within thirty (30) calendar days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than ninety (90) calendar days and not later than one hundred and twenty (120) calendar days following the occurrence of the vacancy, and to be otherwise governed by law.

### Article III

#### Qualifications, Nominations, and Elections

##### 3.1 Ward Limits

There are hereby created and established four (4) Wards for The Town of Georgetown as follows:

3.1.1 First Ward: The area within the Town limits South of the center line of East Market Street and East of the center line of South Bedford Street, extending to the outermost limits of the Town.

3.1.2 Second Ward: The area within the Town limits North of the center line of East Market Street and East of the center line of North Bedford Street, extending to the outermost limits of the Town.

3.1.3 Third Ward: The area within the Town limits North of the center line of West Market Street and West of the center line of North Bedford Street, extending to the outermost limits of the Town.

3.1.4 Fourth Ward: The area within the Town limits South of the center line of West Market Street and West of the center line of South Bedford Street, extending to the outermost limits of the Town.

##### 3.2 Qualifications For Mayor And Town Council Member

The qualifications for Mayor and Town Council member at the time of their election shall be in accordance with 15 Del.C. §7555(c)(1), (c)(2) and (c)(3) as amended and shall also include:

(a) The Mayor shall be at least twenty one (21) years of age, a citizen of the United States and of the State of Delaware and a bona fide resident of The Town of Georgetown as defined in Section 3.2 (g).

(b) The Town Council member from the First Ward shall be at least twenty-one (21) years of age, a citizen of the United States and of the State of Delaware, a bona fide resident of The Town of Georgetown and a bona fide resident of the First Ward as defined in Section 3.2 (g).

(c) The Town Council member from the Second Ward shall be at least twenty-one (21) years of age, a citizen of the United States and of the State of Delaware, a bona fide resident of The Town of Georgetown and a bona fide resident of the Second Ward as defined in Section 3.2 (g).

(d) The Town Council member from the Third Ward shall be at least twenty-one (21) years of age, a citizen of the United States and of the State of Delaware, a bona fide resident of The Town of Georgetown and a bona fide resident of the Third Ward as defined in Section 3.2 (g).

(e) The Town Council member from the Fourth Ward shall be at least twenty-one (21) years of age, a citizen of the United States and of the State of Delaware, a bona fide resident of The Town of Georgetown and a bona fide resident of the Fourth Ward as defined in Section 3.2 (g).

(f) Each of the qualifications for Mayor and Town Council member shall be continuing qualifications to hold office and the failure of either the Mayor or any Town Council member to continue to have any of the qualifications required by this Section during their term of office shall create a vacancy in the office.

(g) A person is a 'bona fide resident' of the town when he/she physically resides within the corporate limits of the town and continues to make that residence his/her fixed and permanent home.

### 3.3 Notice of Solicitation of Candidates; Notice of Candidacy

3.3.1 Notice of Solicitation of Candidates. Not less than twenty (20) calendar days prior to the filing deadline for Notices of Candidacy, the Town shall post a 'Notice of Solicitation of Candidates' in at least two (2) public places in the Town, one of which shall be at the Town Hall. If the Town has a website, such notice shall also be posted on the website. The Town shall provide a copy of such notice to the Department of Elections. Such notice shall include the term or terms of each office up for election, the deadline and procedure for declaring candidacy for an office up for election, and the qualifications for holding each office. If the Town permits absentee ballots, the notice shall also include information concerning how to obtain an absentee ballot.

3.3.2 Statement of Candidacy. In order to be listed on the ballot at any regular or special election of Town Council members, each candidate shall file a Statement of Candidacy on a form as prescribed by the Town of Georgetown, with the Town Manager. Such statement shall contain an affirmation that the candidate meets all of the qualifications for holding office. The Statement of Candidacy shall be submitted on or before 5:00 p.m. on the fourth Friday in April. If such day be a legal holiday, the last day for filing notification of candidacy shall be the last business day immediately preceding the fourth Friday in April.

The Town Manager shall present all timely received Statements of Candidacy to the Town Council for certification at a special meeting to be held after the filing deadline.

Upon the submission of a Statement of Candidacy, the candidate shall file a Certificate of Intention with the State of Delaware, Department of Elections, no later than seven (7) calendar days after the declaration of candidacy.

3.3.3 Compliance with Municipal Election Statute. Every candidate for Town office, and every effected Town Official, shall comply with the provisions of 15 Del.C. §7555 (d) through (h) as amended as regards to the

filing of 'Certificates of Intention' or 'Statements of Organization'. In accordance with 15 Del.C. §7555 (l), the Town shall submit the names of candidates for each office up for election to the Department of Elections no later than one (1) business day following the deadline for filing a Statement of Candidacy under Section 3.3.2 above.

3.4 Elections.

3.4.1 Voter Qualifications. Any person shall be qualified to vote who, on the date of the election, is:

(1) A United States citizen;

(2) Has attained eighteen (18) years of age;

(3) Is a bona fide resident of the Town, as defined in Section 3.2 (g);

(4) Has not been adjudged a mentally incompetent person by a court of competent jurisdiction;

(5) Has not been disenfranchised pursuant to Sections 3 or 7 of Article V of the Constitution of the State of Delaware.

3.4.2 Voter Registration. The Town Council may, by Ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite for voting at the election.

3.4.3 Uncontested Elections; write-in candidates.

(1) Where there is only one (1) official candidate for each office up for election, the Board of Elections shall declare those candidates elected without the holding of a formal election.

(2) No person or candidate whose name does not appear on the ballot shall be eligible for election, and votes for 'write-in' candidates shall not be counted.

3.4.4 Date, Time, and Place and Manner of Conducting.

3.4.4 (1) Date, Time, and Place. The annual town election shall be held on the second Saturday in May of each year at such time and place, within the town, as shall be determined by the Town Council. The polls shall remain open for not less than six (6) hours, the times to be determined by the Town Council.

(a) At the Annual Municipal Election held on even years, the Mayor and one (1) Council member from the Third Ward and one (1) Council member from the Fourth Ward shall be elected. The Mayor and each of the Council members who are elected shall serve for a term of two (2) years, or until their successor has been duly elected.

(b) At the Annual Municipal Election held on odd years, one (1) Council member from the First Ward and one (1) Council member from the Second Ward shall be elected. Each of the Council members so elected shall serve for a period of two (2) years or until their successor has been duly elected.

3.4.4 (2) Notice of Elections. Notice of town elections, including the date, time, and place thereof, the names of the candidates for each office to be filled, and the qualifications to vote in the election shall be given by posting notice thereof in at least two (2) public places in the town, one (1) of which shall be at the Town Hall, not less than twenty (20) calendar days before the day of such election and by publishing notice thereof in a newspaper of general circulation in the town at least seven (7) calendar days prior to the date of the election. The published notice shall be in bold print or bordered in black in such manner as to call attention thereto.

3.4.4 (3) Voting Machines, Paper Ballots, Electronic Voting System. Elections shall be by voting machine, electronic voting system, or by paper ballot as the Town Council shall determine; provided however that voting machines or electronic voting systems shall be used if required by general statute.

3.4.4 (4) Absentee Voting. The Town Council may, by ordinance, provide for a qualified voter (duly registered if required by ordinance) who shall be unable to appear in person, to cast his or her ballot at any municipal election by absentee ballot. In such event, the Town shall comply with the Delaware Code's Municipal Election statute regarding absentee voting as amended, or in accordance with any future corresponding provision of law.

3.4.4 (5) Rules Governing Conduct of Elections. All elections for Town Offices shall be conducted in accordance with the provisions of 15 Del.C. §7557 regarding, among other things, training of Election Officers, persons who may be admitted into the voting room, electioneering, challengers and challenges, oath of office for Election Officers, bribery, polling places and the preparation thereof, voting procedures, closing of the polls, and unofficial results; provided however that the Board of Elections shall fulfill the role of 'Inspector' of the election. The Town Council may, by ordinance or resolution, adopt such other additional rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the conduct of elections.

3.4.4 (6) Board of Elections. Every election shall be held under the supervision of the Board of Elections. The Board of Elections shall consist of three (3) or five (5) persons (as determined by the Town Council) who shall be qualified voters of the town and who shall not themselves be an elected official or candidate or an immediate family member of an elected official or candidate (mother, father, son, daughter, brother, sister, including half-brothers and half-sisters, stepfamily members, and in-laws). The Board of Elections shall be appointed for each Town Council election by the Town Council at least twenty (20) calendar days before such election. Members of the Board of Elections shall be issued a Certificate of Appointment and shall take the oath or affirmation set out in 15 Del.C. §7551(d). Members of the Board of Elections shall not engage in 'electioneering' as defined in 15 Del.C. §7551(e). After installation of the Board of Elections, the Town shall notify the Commissioner of Elections and the Department of Elections of the Board's members, and post the names and contact information for the Board of Elections in the Town Hall and, on the Town's website (if it has one). The Town Council may, at the same time it appoints the Board of Elections, appoint up to three 'alternate' members (designated as 'first', 'second', and 'third' alternate) to assume office in the event that one or more of the original Board of Elections resigns, is disqualified, or is otherwise unable to serve. Each alternate member shall meet all the qualifications for serving on the Board of Elections and shall conduct themselves in the manner required for members of the Board of Elections. In the event that it becomes necessary for one or more of the alternates to serve, they shall be provided a Certificate of Appointment, administered the oath or affirmation, and notice of their appointment provided as in the case of the original members of the Board of Elections. Members of the Board of Elections shall be the sole and final judges of the conduct of the election and of the legality of the votes offered. The Board of Elections shall determine all challenges and other issues involving the conduct of the election at the polling place. The Board of Elections shall keep a list of all voters voting at said election. The Board of Elections shall have the power to administer oaths, subpoena persons, and officers of the town, and books, records and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered.

3.4.4 (7) Election Officers. As defined in 15 Del.C. §7556, the Board of Elections shall appoint a sufficient number of Election Officers to assist in conducting the Town Election in a fair and equal manner. Any Election

Officer who violates the provisions of the Municipal Election statute shall be forthwith removed by the Board of Elections.

3.4.4 (8) Election Results. The Board of Elections shall tabulate the votes and announce the results of the election as soon as possible following the closing of the polls. Following the resolution of any contest and the certification of the election results, the Board of Elections shall audit the election records in order to reconcile the number of voters who cast ballots as compared to the number of voters who returned absentee ballots and voted on voting machines. The tabulated results shall be made available for public review.

3.4.4 (9) Recounts. The Board of Elections shall recount the absentee ballots (if any) if the difference between the top two candidates is one half (½) of one percent (1%) or less than the total votes cast for that office. Where citizens vote for more than one candidate for an office, the Board of Elections shall recount absentee ballots if the difference between the last candidate elected and the next closest candidate are one-half (½) of one percent (1%) or less than the total votes cast for the office.

3.4.4 (10) Ties. In the event of a tie vote for any office, the Board of Elections shall determine such tie by a majority vote of the entire Board of Elections.

3.4.4 (11) Preservation of Ballots and Records. All ballots cast and all records of the election kept by the Board of Elections shall be preserved in the custody of the Town Manager, following the Board of Election's announcement of the election results, unless an appeal is filed in a court of appropriate jurisdiction, in which case such ballots and records shall be preserved until further direction of the court having jurisdiction.

3.4.5 Time Limit to Challenge Election. No action to challenge the election of any member of the Town Council may be filed after the expiration of thirty (30) calendar days from the date the Board of Elections announces the results of the election.

#### Article IV

#### Governmental Structure

#### 4.1 Structure Of Government

The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in the Town Council. The Town Council shall be composed of four (4) Ward members and a Mayor, each of whose terms shall be for a period of two (2) years commencing at the Annual Meeting of the Town Council following their election and continuing until their successor is duly elected and qualified. Each member of the Town Council shall be elected by the voters at large. The Mayor of the Town of Georgetown and each Town Council member shall receive as compensation such amount as shall be determined by the Town Council by ordinance or resolution for attendance at any regular meeting, special meeting or workshop meeting. The time of payment is to be determined by the Town Council, but in no event shall such compensation be paid less frequently than annually and at no time shall the compensation to be received by the Mayor during any fiscal year be more than Two Thousand Dollars (\$2,000.00) and no Ward member of the Town Council shall receive during any fiscal year more than One Thousand Dollars (\$1,000.00).

#### 4.2 Town Manager



(a) The Mayor of The Town of Georgetown, with the concurrence of a majority of all the elected members of the Town Council, may appoint a Town Manager who shall be the Chief Administrative Officer of the Town at such compensation as shall be determined by the Town Council.

(b) The Town Council of the Town of Georgetown shall impose such qualifications for Town Manager as may be deemed necessary; provided however, that no person holding the office of Mayor or Town Council member shall be chosen to be Town Manager during his/her term of office as Mayor or Council member.

(c) The Town Manager shall hold office for an indefinite term and may be removed by a majority vote of the Town Council of the Town of Georgetown. At least thirty (30) calendar days before such removal shall become effective, the Town Council shall, by a majority vote of all the elected members thereof, adopt a preliminary resolution stating the reasons for his/her removal. The Manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) calendar days nor later than thirty (30) calendar days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Town Council, by a majority vote of all the elected members thereof, may adopt a final resolution of removal. By the preliminary resolution, the Town Council may suspend the Town Manager from duty with or without pay but shall in any case cause to be paid him/her forthwith any unpaid balance of his/her salary.

(d) In case of the absence or disability of the Town Manager, the Town Council may designate some qualified person to perform the duties of such office during his/her absence or disability. The compensation which the Town Manager shall receive for the performance of his/her duties shall be fixed by the Town Council of The Town of Georgetown.

(e) The Town Manager shall be responsible to the Town Council for the proper administration of the affairs of the Town placed in his/her charge and to that end he/she shall have the power to make such appointments and to hire such employees at such compensations as are authorized by the Town Council, subject to such rules and regulations as may be adopted by the Town Council. All employees shall be hired for an indefinite term and may be suspended with or without pay, demoted or dismissed by the Town Manager at any time unless otherwise provided by resolution of Council and shall report all such suspensions, demotions or dismissals to the Town Council at the next meeting of such Town Council whenever such meeting be a regular meeting or a special meeting. The Town Council of the Town shall sit as a Board of Appeal for the protection of Town employees at those times when the majority of all the Town Council are agreed that a review of the action of the Town Manager would be in the best interest of the Town. The decision of the Town Council in such case shall be final and conclusive.

(f) It is the intention of this Charter that, in the performance of his/her duties, and in the exercise of his/her powers, the Town Manager shall not be influenced by any matters whatsoever of a political or fractional nature. It is the intention of this Charter that the Town Manager shall be guided solely by matters of expediency and efficiency in the administration of the affairs of the Town placed in his/her charge. Except for purposes of inquiry, the Town Council shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.

(g) It shall be the duty of the Town Manager to supervise the administration of the affairs of the Town under his/her charge and to make such reports to the Town Council as are required by the Town Council. The Town Manager shall make such recommendations to the Town Council concerning the affairs of the Town as may seem to

him/her desirable; keep the Town Council advised of the financial condition and future needs of the Town; prepare and submit to the Town Council the annual budget estimate; render to the Town Council at the regular monthly meeting of each and every month a true, accurate and detailed account of all the moneys collected or received by him/her in the performance of his/her duties and shall promptly turn the same over to the Town Council.

(h) In conjunction with the Mayor, he/her shall sign warrants pursuant to appropriations or resolutions theretofore made for the Town Council; prepare and submit to the Town Council such reports as may be required by the Town Council; and perform such other duties as may be prescribed by this Charter or required of him/her by Ordinance or Resolution of the Town Council.

(i) The Town Manager and such other officers of the Town as may be designated by vote of the Town Council shall be entitled to a seat in the meetings of the Town Council, but shall not vote therein.

(j) The Town Manager shall have charge of the water plant operated by the Town, and of the water and sewer systems of the Town. The Town Manager shall have charge of the supervision of the streets, gutters, curbs and sidewalks of the Town and of all work relating thereto. The Town Manager shall have charge of the administration of all provisions of this Charter and ordinances and regulations of the Council relating to affairs of the Town, when not otherwise provided for by this Charter or by any ordinance or resolution of the Council. The Town Manager shall ex officio be the collector of taxes for the Town. It shall be his/her duty to collect all water rents and fees for the tapping of water mains and sewers, and all Town revenue from any source whatsoever.

(k) The Town Manager shall keep a full and strict account of all moneys received and all disbursements made by him/her and such accounts shall, at all times, be open to inspection to the Town Council.

(l) The Town Manager shall give to the Town a bond, if required by the Town Council, in such sum and in form with security satisfactory to the Town Council for the faithful performance of the duties of his/her office and the restoration to the Town, in case of his/her death, resignation, or removal from office all books, papers, vouchers, money and other property of whatever kind in his/her possession belonging to the Town.

(m) In the event of a vacancy in the office of the Town Manager for any reason or reasons whatsoever, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges and powers theretofore reposed in his/her predecessor or predecessors in office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.

(n) Upon the death, resignation, or removal from office of the Town Manager, the Town Council shall appoint some suitable person, who may be an elected or appointed official of the Town, to perform the duties of Town Manager; provided, however, such person shall not serve for a period exceeding ninety (90) calendar days from the date of his/her appointment.

#### 4.3 Police Force

(a) The Town Council shall be responsible for the establishment of a police department and adoption of a workforce level. The Town Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the police force. The Town of Georgetown police force shall exercise primary jurisdiction within the boundaries of the Town, to include annexed properties not specifically identified within this Charter. Each sworn member of the police force shall have police powers and shall be

conservators of the peace throughout the Town of Georgetown. They shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. They shall compel the enforcement of all laws enacted by the Town Council of the Town of Georgetown. The police force shall preserve peace and order and shall compel obedience within the Town limits to the ordinances of the Town and the Laws of the State of Delaware. Each officer of the Georgetown Police Department shall take an oath to protect, defend, and obey the Constitution of the United States of America and the Constitution and Laws of the State of Delaware and ordinances of the Town of Georgetown. In the case of a pursuit of an offender, the power and authority of the police force shall extend beyond the territorial limitations of the Town of Georgetown. It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in the streets of the Town or the noisy conduct of any person in the same, and upon the view of the above or upon the view of the violation of any ordinance of the town relating to peace and good order thereof, the police force shall have the right and power to arrest without a warrant.

(b) The Chief of Police shall be appointed by the Mayor with the advice and consent of a majority of all elected members of the Town Council at such compensation as shall be determined by the Town Council. The Chief of Police shall be solely responsible for the day to day operational control of the police department. The Chief of Police shall make rules and regulations governing the operational control of the police department. The Chief of Police will be responsible for the good order and discipline of the department. The Chief of Police will be responsible for the hiring of qualified persons to be employed by the police department. The Chief of Police will be responsible for the promotion and demotion of employees in accordance with the written policies of the police department. The Chief of Police or his/her designee is authorized to suspend, dismiss or discipline any employee of the police department for violations of the Laws of the State of Delaware, ordinances of the Town of Georgetown or written policies of the Town of Georgetown of the Police Department. The Chief of Police shall be subject to the direction of the Town Manager acting for the Town Council. The Chief of Police shall have such other duties as the Town Manager may from time to time prescribe. All members of the police force shall be paid such compensation as shall be determined by the Town Council.

(c) The Police Chief shall hold office for an indefinite term and may be removed by a majority vote of the Town Council of The Town of Georgetown as in compliance with 11 Del.C. §9301.

(d) Every person sentenced to imprisonment by the Alderman or the Assistant Alderman or a Justice of the Peace, as the case may be, shall be delivered by a member of the police force to the correctional institution located in Sussex County to be there imprisoned for the term of his/her sentence.

(e) In the case of an arrest at any time when the Alderman or the Assistant Alderman of the Town of Georgetown shall not be available or if no such Alderman or Assistant Alderman has been appointed, the person arrested may be taken before the nearest Justice of the Peace with offices in Sussex County who shall hear and determine the charge, and who, in such case, is vested with all the authority and powers granted by this Charter under the Alderman or the Assistant Alderman. In the case of an arrest at a time when the Alderman or the Assistant Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Sussex County for imprisonment until such reasonable time thereafter as shall enable the Alderman or Assistant Alderman or the Justice of the Peace to hear and determine the charge against such person.

#### 4.4 Town Solicitor

The Mayor of The Town of Georgetown, with the advice and consent of a majority of the elected members of the Town Council, shall select and appoint a Town Solicitor for an indefinite term who shall be removable at the pleasure of the Town Council of The Town of Georgetown either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware. It shall be his/her duty to give legal advice to the Town Council and other officers of the Town and to perform other legal services as may be required of him/her by the Town Council.

#### 4.5 Alderman's Court

The Town Council is authorized to establish an Alderman's Court in a manner consistent with the Constitution and laws of the State of Delaware.

#### 4.6 Alderman And Assistant Alderman

(a) Appointment. An Alderman and Assistant Alderman shall be recommended by the Town, appointed by the Governor and confirmed by the Delaware State Senate. Once confirmed the Alderman and/or Assistant Alderman shall be sworn into office by the Mayor, and evidence of his or her appointment shall be recorded at the Recorder of Deeds in Sussex County.

(b) Appointment and Reappointment Nomination. When a vacancy occurs the Town Council shall by majority vote, submit a list of one or more qualified candidates and the application(s) and supporting documentation to the Governor for consideration of appointment. Not less than thirty (30) days prior to the expiration date of an Alderman's or Assistant Alderman's term, the Town Council shall by majority vote, determine whether or not to recommend reappointment of the Alderman or Assistant Alderman for an additional term. The Town shall submit a letter of recommendation to the Governor for consideration of reappointment, or alternatively, its written recommendation of one or more qualified candidates along with their applications and supporting documentation to the Governor for consideration of appointment.

(c) Term of Office. The Alderman and Assistant Alderman shall serve a two - year term and shall remain in office until either reappointed or a successor is duly qualified.

(d) Removal. An Alderman or Assistant Alderman may be censured or removed subject to the provisions of Article IV, Section 37 of the Delaware Constitution of 1897 and the Rules of the Court on the Judiciary. An Alderman or Assistant Alderman may also be replaced upon expiration of a term, following Senate confirmation of a new Alderman or Assistant Alderman. If any Alderman or Assistant Alderman has been removed from office by Senate confirmation of a new nominee or by action of the Court on the Judiciary, he/she shall, within five (5) days of the Senate confirmation or Court on the Judiciary action, deliver to the Mayor all the books and papers belonging to the Town, and shall within five (5) days pay over to the Town Manager all moneys in his/her hands. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or Assistant Alderman, the Mayor may require the auditor of the Town to make an audit of the books and papers of the official who has been replaced. Upon the neglect or failure to deliver all the books and papers to the Mayor within the time specified by this Charter, or to pay over all of the moneys to the Town Manager within the time specified, the Alderman or Assistant Alderman, so replaced, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be

fined not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$ 100) for each day that he or she fails to deliver the books and papers to the Mayor or to pay over all moneys to the Town Manager.

(e) Vacancy. In the absence of the Alderman, or when a vacancy occurs in the office of Alderman, the Assistant Alderman shall exercise all the powers, duties, and responsibilities of the Alderman as set forth in this Charter. When a vacancy occurs for an Alderman and there is no Assistant Alderman to act as Alderman, and the Delaware State Senate is recessed for more than 6 weeks, the Town may elect to have a retired Magistrate act as Alderman pending the confirmation of a nominee with the Delaware State Senate. Such retired Magistrate must meet the appointment qualifications of 10 Del. C. Section 9211(a) to serve in such capacity, and shall receive such compensation as may be established by the Town Council. A retired Magistrate acting as Alderman shall have all powers, duties, and responsibilities of the Alderman as set forth in this Charter.

(f) Qualifications. Any person appointed to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, a United States citizen, of good character and reputation, shall live within Sussex County, and shall not be a member of the Town Council or otherwise an officer or employee of the Town of Georgetown.

(g) Oath of Office. Within 14 days of Senate confirmation the Alderman or Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of office honestly, faithfully, diligently, and to uphold and enforce the Charter of the Town of Georgetown and ordinances duly enacted by the Town Council of the Town of Georgetown.

(h) Duties. It shall be the duty of the Alderman and Assistant Alderman to adjudicate actions brought under any ordinances legally enacted or established by the government of the Town and to carry into effect all legally binding orders and directions of the Town Council made pursuant to any law of this State or its Constitution. In carrying out the duties of the office, an Alderman or Assistant Alderman shall comply with the ethical responsibilities required of Aldermen in this state and shall operate the court in accordance with the Criminal Rules of Procedure for the Alderman and Mayor Courts of the State of Delaware.

(i) Compensation. The compensation of the Alderman and Assistant Alderman shall be fixed by the Town Council and approved in conjunction with the Town Council's adoption of the Town operating budget. If no change is proposed and approved by the Town Council, the previously established compensation rate shall continue in effect until revised by a majority vote of the Town Council. Such compensation shall not be contingent upon or related to the amount of any civil or penal fines imposed or collected through the Alderman Court and shall not be reduced during the term of office.

(j) Alderman's Docket. The Town Council shall procure suitable records for the use of the Alderman and the Assistant Alderman. Such records shall be known as the 'Alderman's Docket'. The Alderman and Assistant Alderman shall record all official acts and proceedings in the Alderman's Docket. All criminal matters, but not civil matters, shall be entered into the Delaware Criminal Justice Information System (DELJIS) as required by law.

(k) Jurisdiction. The Alderman and Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace, offenses and violations of any civil or criminal ordinance of the Town committed within the corporate limits of the Town of Georgetown. As to such offenses or violations over which they are given jurisdiction by this Charter or by any other law of the State of Delaware, the Alderman and Assistant Alderman shall be

authorized and empowered to hold for bail, set bail, impose fines, or imprison, for each offense or violation in accordance with the penalties provided by this Charter, by any Town Ordinance enacted hereunder, or as provided by any law of the State of Delaware; provided however, that the maximum fine which the Alderman or Assistant Alderman may impose shall never exceed the limits established by this Charter.

(l) Civil and Criminal Penalties; Costs. Neither the Alderman nor the Assistant Alderman shall impose any penalty in excess of Five Hundred Dollars (\$500) exclusive of costs nor imprison any offender for more than thirty (30) days, or both, except as otherwise specifically provided in this Charter or by state statute; but the Alderman and Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by ordinance or resolution of the Town Council.

(m) Monthly Report to Town Council. The Alderman and Assistant Alderman shall prepare and submit a written monthly report to the Town Council reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Town Manager of the Town all such fines and penalties at such times as the Town Council shall direct. Neither the Town Council nor the Mayor may establish or communicate an expected revenue budget for the Alderman Court.

(n) Alderman Court Facilities and Staff. The Town of Georgetown shall provide adequate and appropriate facilities and staff to facilitate the independent judicial operations of the Alderman Court. Facilities shall be separate from conflicting town operations, including, but not limited to, police agency functions. The town may house the Alderman Court in a common municipal building, so long as the Alderman's Court is provided space physically separate from other town functions and is further situated in such a manner to foster public confidence in the independence of the Court. Likewise, staff assigned to the Court shall not be shared with conflicting town government operations.

## Article V

### Financial Affairs, Powers, and Procedures

#### 5.1 Fiscal Year

The fiscal year of the Town shall begin the first day of May and shall end with the next succeeding thirtieth day of April.

#### 5.2 Annual Budget

(a) Annually each year and not later than sixty (60) calendar days prior to the beginning of the next fiscal year, the Town Manager shall prepare a rough draft of the Town Budget. From this rough draft, the Town Council shall, not later than the regular meeting following the presentation of the rough draft prepared of the Town Budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year, adopt the budget.

(b) The budget shall contain the following information:

- (1) An estimate showing the expenses for conducting the affairs of the Town for the ensuing fiscal year;
- (2) The amount of the debt of the Town, together with the schedule of maturities of bond issues;
- (3) An itemized statement of all other estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;
- (4) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year and the amount required for the 'Sinking Fund' or 'Sinking Funds';

(5) An estimate of the amount of money to be received from taxes, water rents, sewer service charges, front foot assessments, license fees and all other anticipated income of the Town from any source or sources whatsoever.

(c) The Town Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

### 5.3 Annual Audit

Annually in the month of June the Town Council shall have the finances of the Town and books and accounts of the Town Manager and the Controller/Treasurer audited by a certified accountant. As soon as practicable after such audit has been completed, the Council shall cause to be made and publish a report of the Town's finances for the preceding fiscal year.

### 5.4 Contracts

(a) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by competitive bidding and the awarding of contracts to the lowest responsible bidder who submits a responsive bid; provided, however, that competitive bidding shall not be required in any of the following circumstances:

(1) The aggregate amount involved is not more than Ten Thousand Dollars (\$10,000);

(2) The purchase or contract is for any service rendered by a University, college or other educational institution;

(3) The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision;

(4) The purchase or contract is for property or services for which it is impracticable to obtain competition;

(5) The public exigency, as determined by the Town Council, will not permit the delay incident to advertising;

(6) The materials to be purchased are to be used to complete a project under the supervision of the Town Manager;

(7) The purchase or contract is for property or services for which the Town Council determines the prices received after competitive bidding are unreasonable as to all or part of the requirement or not independently reached in open competition;

(8) A public emergency as determined by the Town Council exists;

(9) The purchase or contract is for property for which the distance involved or other factors in order to have maintenance performed, as determined by the Town Council, are unreasonable.

(10) Employee contracts are excluded from provisions of this Section.

(b) Notwithstanding the foregoing provisions of this Section 5.4 and without complying with the competitive bidding procedures described above, the Town Council of the Town of Georgetown may enter into any contract necessary or desired in connection with a special development district or tax increment financing district created or designated by the Town Council of the Town of Georgetown pursuant to Section 5.10 of this Charter except a contract in which the Town Council of the Town of Georgetown is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the Town Council of the Town of

Georgetown and an owner of real property in such district when the contract is generally for the transfer by the owner to the Town Council of the Town of Georgetown of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

(c) It shall be unlawful for the Town Council to make or enter into any contract in excess of Five Hundred Dollars (\$500) for materials, supplies, services, work or labor, for the benefit and use of the Town of Georgetown with the Mayor or any Ward member of the Town Council or with any partnership in which the Mayor or any Ward member of the Town Council is a General Partner, or with any corporation which the Mayor or any Ward member of the Town Council is a director or controlling stockholder, or with any firm or company in which the Mayor or any Ward member of the Town Council is pecuniarily interested, provided that if all the remaining elected members of the Town Council shall vote to enter into such contract, then the Town may enter into such a contract. The Mayor or any member of the Town Council with any interest in such contract shall recuse themselves from the discussion and vote. Any such contract executed without such vote shall be absolutely null and void.

#### 5.5 Tax Assessments

5.5.1 Adoption of Sussex County Assessments. Unless the Town Council shall make its own independent assessment and valuation, the Town Council shall use the assessments of Sussex County for any or all property located within the corporate limits of the Town of Georgetown, anything herein to the contrary notwithstanding. The assessed values established by Sussex County for the then-current tax year shall be conclusive for purposes of levying Town taxes, and the Town Council shall have no authority to hear appeals regarding same. Town Council shall elect to adopt the Sussex County Assessments no later than April 1 of each year.

5.5.2 Additions to Tax Bill. The Town Council may annually, prior to the posting of the assessment list, by resolution, provide for the Town Manager a list of any and all charges, costs or other assessment owed to the Town, which list of charges incurred shall include, but not limited to, the following: water bond sinking fund assessments, sidewalk assessments, curb and gutter assessments, water assessments, weed and grass cutting bills, trash collection bills, past due water rents and/or past due charges for sanitary sewer service.

5.5.3 Assessment and Taxation of Gas Mains, Telephone, Telegraph, and Power Poles and Appurtenances. The Town Council shall have the right to levy and collect on gas mains, telephone, telegraph and power poles or other erections of like character within the limits of the Town, together with wires and appurtenances thereto or thereon attached, and to this end may at any time direct the same to be included in or added to the Town assessment.

5.5.4 Supplemental Tax Billing. In the event that the Town Council of the Town of Georgetown desires to collect and levy taxes on newly constructed property not taxed by virtue of the annual assessment, the Town Council may do so provided that: Semi-annually, there shall be an increase in the valuation and assessment of all newly constructed real property within the Town, locating each parcel of real property by street and number or other description. Property shall be deemed to be newly constructed when the Town permits occupancy and use (certificate of occupancy) or when new construction is being used or occupied for its intended purpose. The said valuation and assessment shall be made in accordance with the provisions set forth in Section 5.5.1 of this Charter. The aforementioned assessment shall be during the month of October of each year. Nothing in this section contained shall be deemed or held to invalidate or otherwise affect any assessment made prior to the approval of this section or any tax levied thereunder.



All taxes shall be paid to the Town of Georgetown. Said taxes shall be paid within 30 calendar days of billing and those taxes not paid shall accrue a penalty in the amount of five percent (5%) per month. For every tax that is not paid as prescribed herein, the Town Manager shall have all the powers conferred upon or vested in the Director of Treasury for Sussex County. The Town Council shall have the authority to allow errors and delinquents in the assessment.

#### 5.6 Tax Levy; Tax Limit

5.6.1 Tax Levy. The first regular meeting in the last month of the fiscal year, after having revised and completed the assessment, the Town Council shall determine, in its best judgment and knowledge, the total amount necessary to be raised by the Town to meet the fixed and anticipated expenses and obligations of the Town, including reasonable and appropriate reserves for the then current fiscal year as set forth in the Town budget for such year plus a reasonable amount to cover anticipated expenses and emergencies.

5.6.2 Real Property Taxes. The rate of tax on real estate including improvements thereon per One Hundred Dollars (\$100) of the assessed value.

5.6.3 Utility Fixtures. The rate of tax upon all gas mains, poles, construction, erections, wires and appurtenances per One Hundred Dollars (\$100) of the assessed value.

5.6.4 Tax Limit. The total amount of money to be raised by real property taxes Section 5.6.2 and utility fixture taxes Section 5.6.3 shall in no year exceed ten percent (10%) of the total assessed valuation of all taxable real estate (and improvements thereon) in the Town.

5.6.5 Validity. Nothing contained in this Charter shall be construed to affect or impair in any way the validity of any tax, fee, assessment or other charge lawfully levied, assessed or due the Town of Georgetown under the existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in the Town of Georgetown created hereby.

#### 5.7 Collection of Annual Taxes

5.7.1 Collection by Town Manager. The Town Manager shall be responsible for the collection of taxes hereunder.

5.7.2 Lien. All taxes (and municipal charges) so laid or imposed by the Town shall be and constitute a lien, for a period of ten (10) years from the date so levied, upon the real estate against which such taxes are laid and imposed. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so levied. Subject to the provisions of 25 Del.C. Ch. 29, as amended, or in accordance with the provisions of any future corresponding provisions of law, such lien shall have preference and priority to all other liens on such real estate as aforesaid, created or suffered by the said taxable, although such lien or liens be of a time and date prior to the time of the attaching of such lien for taxes.

5.7.3 Due Date. All taxes shall be due and payable as established under Section 5.7.4. All taxes shall be paid to the Town of Georgetown. All taxes, when and as collected by the Town Manager, shall be paid to or deposited to the credit of the Town of Georgetown, in federally-insured banking institutions approved by the Town Council.

5.7.4 Collection of Delinquent Taxes. It shall be the duty of the Town Manager to proceed forthwith to collect all taxes together with penalties and costs (all hereinafter 'delinquent taxes') unpaid a year and a day after

due. In the collection of said delinquent taxes, the Town Manager of the Town of Georgetown shall have all of the powers and authority conferred upon or vested in the Director of Treasury for Sussex County as set forth in 9 Del.C. Ch. 87 as amended, (or in accordance with any future corresponding provision of law). Except as otherwise expressly stated herein, the provisions of 25 Del.C. Ch. 29, as it may from time to time hereafter be amended, (or in accordance with any future corresponding provision of law) shall be deemed and held to apply to all taxes levied and imposed under the provisions of this Charter.

The Town Council shall have the power to make allowances for delinquencies in the collection of taxes.

#### 5.8 Collection Of Charges Due The Town

(a) In the collection of any charges due the Town including but not limited to water rentals, sewer service charges, electric bills, gas bills, license fees, tapping fees, front foot assessments, charges growing out of the abatement of nuisances, laying out and repairing paving, graveling, curbing, or any of them, shall become a first lien against all real estate of the delinquent property owners situated within the Town and such charges shall have preference and priority for a period of ten (10) years from the date the charge became due and owing to all other liens on real estate created or suffered by the taxable and property owner, although such other lien or liens be of a date prior to the time for the attaching of such liens for such charges.

(b) The remedies available to the Town Manager for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

#### 5.9 Power To Borrow Money And Issue Bonds

(a) The Town Council may borrow money and issue bonds or certificates of indebtedness to secure the repayment thereof on the faith and credit of the Town of Georgetown to provide funds for the erection, extension, enlargement, purchase or the repair of any plant, machinery, appliances, or equipment for the supply, or the manufacture and distribution of electricity or gas for light, heat or power purposes; for the furnishing of water to the public, for the construction, repair and improvements of highways, streets or lanes or the paving, curbing or erection of gutters and curbs along the same; for the purchase of real estate for any municipal purpose; for the construction or repair of sewage disposal equipment; or to defray the cost or the share of the Town of the costs of any permanent municipal improvements; provided, however, that the borrowing of money therefore shall have been authorized for the Town Council in the manner following:

(1) The Town Council by Resolution shall propose to the residents and property owners of the Town that the Town Council proposes to borrow a certain sum of money for any of the purposes above stated. The Resolution shall state the amount of money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan which are deemed pertinent by the Town Council and in their possession at the time of the passage of the Resolution and shall fix a time and place for a hearing on the said Resolution.

(2) Notice of the time and place of the hearing on the Resolution authorizing said loan shall be printed in a newspaper having a general circulation in the Town or distributed in circular form at least one week before the time set for the public hearing.

(3) Following the public hearing, a second Resolution shall then be passed by the Town Council ordering a Special Election to be held not less than thirty (30) calendar days nor more than sixty (60) calendar days after the

said public hearing to borrow the said money, the said Special Election to be for the purpose of voting for or against the proposed loan. The passing of the second Resolution calling a Special Election shall be considered the determination of the Town Council to proceed with the matter in issue.

(4) The notice of the time and place of holding the said Special Election shall be printed in two (2) issues of a newspaper having a general circulation in the Town of Georgetown within thirty (30) calendar days prior to the said Special Election and/or distributed in circular form at least fifteen (15) calendar days prior to the Special Election, or both, at the discretion of the Town Council.

(5) At the said Special Election, every bona fide resident of the Town of Georgetown shall have one vote and, in addition, every person, partnership or corporation owning property within the corporate limits of the Town of Georgetown shall also have one vote and the said votes may be cast either in person or by absentee ballot.

(6) The Town Council shall cause to be prepared, printed and have available for distribution a sufficient number of ballots not less than five (5) calendar days prior to the said Special Election. The Special Election may, at the discretion of the Town Council, be conducted by the use of voting machines or by paper ballot. The Mayor of the Town of Georgetown, by and with the advice and consent of the majority of the Town Council shall appoint three (3) persons to act as a Board of Special Election. The polling place shall remain open for not less than six (6) hours, the times to be determined by the Town Council on the date set for the Special Election.

(7) The Special Election shall be held according to all applicable criteria prescribed in Section 3.4.4 (4) and (5) of this Charter. The Board of Special Election shall operate according to all applicable criteria prescribed for a Board of Elections contained in Section 3.4.4 (6) through (11) of this Charter. No action to challenge the results of the Special Election may be filed after the expiration of thirty (30) calendar days from the date the Special Board of Election announces the results of the Special Election.

(8) The form of the bond or certificate of indebtedness, the interest rate, the time or times of payment of interest, the classes of the bond, the time or times of maturity, and the provisions as to registration shall be determined by the Town Council after the said Special Election.

(9) The bonds may be sold at either public or private sale. If it is determined to sell the bonds at public sale, they shall be offered for sale to the best and most responsible bidder therefore after advertisement in a manner to be described by the Town Council.

(10) The Town Council shall provide in its budget and in the fixing of the rate of tax for the payment of interest on and principal of the said bonds at the maturity thereof.

(11) The faith and credit of The Town of Georgetown shall be deemed to be pledged for the due payment of the bonds and interest thereon issued pursuant to the provisions hereof when the same had been properly executed and delivered for value.

(b) The bonded indebtedness shall not at any time exceed in the aggregate the total sum of seventy-five percent (75%) of the assessed value of real property situate within the limits of the Town of Georgetown shown by the last assessment proceeding the creation of the said indebtedness. Debt which has been advance refunded with proceeds of the advance refunding sufficient to pay principal and interest on the debt to the first allowable call date having been irrevocably deposited in trust with a Delaware bank irrevocably with instructions to make no

investment of the funds deposited other than in guaranteed or direct obligations of the United States shall not be counted as indebtedness.

(c) Notwithstanding the foregoing provisions of this Section, The Town Council, after conducting a public hearing, may authorize the issuance of bonds, certificates of indebtedness, notes or other obligations of the Town under this Section in an aggregate amount of up to \$5,000,000 outstanding at any time, without regard to the requirements set forth in paragraphs (3) - (8) of Section 5.9 (a), if: (i) the funds to be borrowed are from a Federal or State source; (ii) the interest rate on such borrowing is fixed at zero (0%) percent; (iii) the borrowing comes with one hundred (100%) percent forgiveness of principal upon successful completion of the project financed with funds borrowed pursuant to this paragraph (c); and (iv) the Town Council, by Resolution (adopted by at least a majority of all of the members of Town Council) approves of the issuance of bonds, certificates of indebtedness, notes or other obligations pursuant hereto for a proper municipal purpose with such Resolution stating the amount of such issuance, or borrowing, the purpose of such issuance or borrowing, the manner, if any, of securing the same, that the amount of all other bonds, certificates of indebtedness, notes and other obligations issued pursuant to this paragraph (c) does not exceed \$5,000,000 and any other facts relating to the issuance which are deemed pertinent by the Town Council and in its possession at that time. Except for the provisions of paragraphs (3) - (8) of Section 5.9 (a), all other provisions of this Section 5.9, if not in conflict, shall be applicable to the bonds, certificates of indebtedness, notes and other obligations issued pursuant to this paragraph (c).

#### 5.10 Tax Increment Financing and Special Development Districts.

In addition to all other powers the Town Council may have, and notwithstanding any limitation of law, the Town Council shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with 22 Del.C. Ch. 17, relating to the Municipal Tax Increment Financing Act, and 22 Del.C. Ch. 18, relating to Special Development Districts.

#### Article VI

#### Miscellaneous

#### 6.1 Streets

(a) The Town Council shall have the power and authority to lay out, locate and open new streets or to widen and alter existing streets or parts thereof and to vacate or abandon streets or parts thereof, whenever the Town Council shall deem it for the best interest of the Town. The jurisdiction of the Town Council under this Section shall be concurrent with the jurisdiction of the Superior Court of the State of Delaware to vacate public roads, bridges and all of the right-of ways pursuant to 17 Del.C. Ch. 13, or any other similar statutory provision.

(b) The procedure to be used for any of those things heretofore listed in this Section shall be as follows:

(1) Whenever five (5) or more property owners in a portion of the Town directly affected or abutting on the proposed street to be opened, laid out, changed, altered, widened, vacated or closed shall by written petition with each signature duly acknowledged request the Town Council to lay out, locate, or open a new street or to widen or alter any existing street or any part thereof or to vacate or abandon a street or any part thereof, the Mayor of the Town of Georgetown shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of changing the structure of said streets in the Town. The petition

presented to the Council by the property owners shall include a description of the property through which the proposed street shall be laid out or description of the street on which any of the other actions heretofore described shall take place and the reasons why the change in the structure of the streets of the Town should be undertaken; or the Town Council, by a majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of its elected members be appointed by the Mayor to investigate the possibility of changing the street structure of the Town.

(2) Not later than ninety (90) calendar days following its appointment, the committee shall submit a report concerning its findings to the Mayor and to the Town Council. The report shall contain the advantages and disadvantages to the Town caused by the changes of the street structure and shall contain the conclusion of said committee either recommending or disapproving the change of said street structure. If the report of the committee appointed by the Mayor recommends changing the existing street structure of the Town of Georgetown, the Council, by Resolution, passed by a majority of the elected members of the Town Council concurring therein, shall propose to the property owners and citizens of the Town that the Council proposes to change the street structure by opening a new street or by doing any of those things herein before described to the existing street structure of the Town. If the report of the committee appointed by the Mayor is not in favor of changing the existing street structure of the Town of Georgetown, the Resolution proposing the change in the street structure to the property owners and citizens of the Town of Georgetown shall be passed by a majority of three-fourths (3/4ths) of the elected members of the Town Council. The Resolution shall contain a description of the proposed change and shall affix a time and place for a public hearing on the matter of changing the street structure. The Resolution adopted by the Town Council shall be printed in a newspaper having a general circulation in the Town of Georgetown, or, in the discretion of the Town Council, the Resolution shall be posted in five (5) public places in the Town for at least one (1) week before the time set for the public hearing. The notice shall be published at least one (1) week prior to the date set for the said public hearing. The Resolution shall also state the hour and place where and when the Town Council shall sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property by the proposed change in the existing street structure of the Town.

(3) Whenever the Town Council shall have determined to locate or lay out or widen any street, lane or alley and shall have affixed compensation therefore, it shall be the duty of the Town Council immediately after the survey and location of said street, lane or alley, to notify by certified mail with return receipt requested and postage prepaid the owner or owners of the real estate through or over whom such street, lane or alley may run of their determination to open or widen the same and to furnish a general description or location thereof; also the amount of compensation or damages allowed to reach such property owner, and if such owner be not a resident of the Town, to notify the holder or tenant of said real estate and the owner of such property if the owner's address be known; that there be no holder or tenant resident in said Town and the address of the owner be unknown or if there is a holder or tenant and the address of the owner is unknown, the said notice may be affixed to any part of the premises. If the owner be dissatisfied with the amount of compensation or damages allowed by the Town, as aforesaid, said property owner may, within fifteen (15) calendar days after such notice, as aforesaid, was posted or mailed, appeal from written notice of assessment or compensation or damages by serving written notice by certified mail with return receipt requested and postage prepared, on the Mayor of the Town to the effect that he or she is dissatisfied with the amount

of such compensation or damages, and that it is his or her intention to make written application to one of the Judges of the Superior Court of the State of Delaware in and for Sussex County, for the appointment of a commission to hear and determine the matter in controversy; and in order to prosecute said appeal, such owner shall, within fifteen (15) calendar days after serving said notice upon the Mayor as aforesaid, make written application to said Judge of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of such a commission; and thereupon the said Judge shall issue and appoint a commission directed to five (5) property owners of said county, three (3) of whom shall be residents of the Town of Georgetown, and two (2) of whom shall be nonresidents of said Town, requiring them to assess the damages which the owner of the real estate through or over which the said street, lane or alley shall pass or who shall have suffered damage because of any other action taken by the Town pursuant to the provisions hereof and who shall have notified the said Town Council of their intention to appeal may incur by reason thereof and to make a return of their proceeding to the said Judge at the time therein appointed.

(4) The property owners named in such commission, being first duly sworn or affirmed, shall view the premises and may, or a majority of them, shall assess the damages, as aforesaid, and shall make return in writing of their proceedings to the said Judge who shall deliver and return to the Town Council which shall be final and conclusive. The said Judge shall have the power to fill any vacancy in the commission. The amount of damages being so ascertained, the Town Council may pay or tender the same to the person or persons entitled thereto within thirty (30) calendar days after the same shall be finally ascertained or if the person or persons so entitled reside out of or are absent from the Town during the said period of thirty (30) calendar days, then the same shall be deposited to his or her credit in any bank or trust company, with offices in Georgetown, Sussex County, Delaware, within said time and thereupon the said property or lands may be taken or occupied for the use as aforesaid.

(5) If the ascertainment and assessment of damages by the property owners appointed by the Judge, as aforesaid, shall be increased, the cost of the appeal shall be paid by the Town out of any money in the hands of the Town Manager belong to the Town, but if said damages shall not be increased, the cost of the appeal shall be paid by the party appealing. The said property owners members of the commission shall receive and be entitled for each day's actual service or of any part of a day the reimbursement of reasonable expenses. After the damage shall be fixed and ascertained by the property owners, the Town Council shall have the option to pay the damages assessed within the time aforesaid, and to proceed with the said improvements or, upon the payment of the costs only, may abandon the proposed improvements. In the event that either party feels that the damages assessed are not just as being excessive or inadequate, an appeal may then be prosecuted at the Supreme Court of the State of Delaware.

## 6.2 Curbing And Paving

(a) Whenever the Town Council shall have determined that any paving, graveling, curbing, or any or all of them shall be deemed necessary in order to maintain public health and or public safety, it shall cause a notice to be sent to the property owner or owners along or in front of whose premises the same is to be done, particularly designating the nature and character thereof and thereupon it shall be the duty of such property owner or owners to cause such paving, graveling, and/or curbing, or any of them, to be done in conformity with said notice. In the event any property owner or owners neglect to comply with said notice for the space of thirty (30) calendar days, the said Town Council may proceed to have the same done and when done, the Town Manager shall, as soon as convenient thereafter, present to the property owner or owners of such lands a bill showing expenses of such paving, graveling,

and curbing, or any of them. If such property owner or owners be not residents in the Town of Georgetown, such bills shall be sent by certified mail with postage prepaid or to such property owner or owners directed to him, her or them at the last known address. If such bill be not paid by the property owner or owners of such lands within sixty (60) calendar days after the presentation thereof, as aforesaid, the Town Manager shall proceed to collect the same in the same manner and under the same terms and conditions as are provided for the collection of delinquent taxes.

(b) Any notice sent to one co-owner shall be notice to all property owners and in the case of no property owners shall reside in said Town, notice served as set forth herein or posted upon the premises shall be sufficient.

(c) The provisions contained herein shall apply to any order made by the Town Council in respect to any pavement, sidewalk or curb heretofore made or done which the said Town Council may deem insufficient or need repairing.

#### 6.3 Notice of Actions Or Suits

No action, suit or proceeding shall be brought or maintained against the Town of Georgetown for damages, either compensatory or punitive on account of any physical injury to property by reason of the negligence, simple, gross, or willful or wanton of the said Town of Georgetown, or any of its departments, officers, agents, servants or employees unless the person by or on behalf of whom such claim or demand is asserted, within one (1) year from the happening of said injury or the suffering of such damages shall notify the Town of Georgetown in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Mayor of the Town of Georgetown by certified mail with return receipt requested and postage prepaid.

#### 6.4 Compendium

It shall be the duty of the Town Council, at reasonable time or times, to compile the ordinances, current regulations, orders and rules of the Town of Georgetown. The Town Council shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, current rules and regulations, or upon the enactment of amendments to same, the Town Council shall enroll the same in the minutes of the Town Council and shall keep copies of the same in a book to be provided for the purpose so that the same may be readily examined. It shall furnish the Mayor of the Town of Georgetown copies thereof as they are enacted as therefrom any cause supplements to be compiled and printed to any compendium thereof heretofore printed as above provided.

#### 6.5 Revival Of Powers And Validating Section

(a) All powers conferred upon or vested in the Town Council of the Town of Georgetown by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the Town of Georgetown and/or the Town Council of the Town of Georgetown precisely as if each of said powers was expressly set forth in this Charter.

(b) All ordinances adopted by the Town Council of Georgetown and in force at the time of approval, acceptance and going into effect of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the Town Council of the Town of Georgetown under the provisions of this Charter.

(c) All of the acts and doings of the Town Council of Georgetown or of any official of the Town Council of Georgetown which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town Council of Georgetown or under any provision of any prior Charter of the Town Council

of the Town of Georgetown, prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

(d) All taxes, assessments, license fees, penalties, fines, and forfeitures due the Town Council of Georgetown shall be due the Town of Georgetown and all debts due from the Town Council of Georgetown shall remain unimpaired until paid by the Town of Georgetown.

(e) All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the Town Council of Georgetown.

(f) The bonds given by or on account of any official of the Town Council of Georgetown shall not be impaired or affected by the provisions of this Charter.

(g) All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter be and the same are hereby repealed to the extent of any such inconsistency.

(h) If any part of the Charter shall be held to be unconstitutional or invalid by a Court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions of this Charter.

(i) This Charter shall be taken as and deemed to be a Public Act of the State of Delaware.

Approved May 03, 2013