

CHAPTER 398
FORMERLY
HOUSE BILL NO. 361
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO REINCORPORATE THE TOWN OF BELLEFONTE.

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 Bellefonte by deleting the text of the Charter in its entirety and making insertions as shown by underlining as follows:

CHARTER OF THE TOWN OF BELLEFONTE

1. Incorporation

The residents of the Town of Bellefonte, within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided, are hereby constituted and declared to be a body politic incorporated in law and equity, by the corporate name of "The Town of Bellefonte," and by that name shall have perpetual succession, and shall have all of the powers incident to or may attach to a municipal corporation as they, through their duly elected officers and agents, may deem proper, not in conflict with provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, nor of the United States; and as such 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.

2. Boundaries

2.1. Boundaries

The limits and boundaries of The Town of Bellefonte in New Castle County, Delaware, shall be as previously fixed and established or hereafter altered according to law and shall be marked and defined according to maps and plots now of record or hereafter recorded in the Office of the Recorder of Deeds in and for New Castle County pursuant to lawful annexation proceedings. Such maps and plots, when so made and approved by Town Commission, and when recorded in the Office of the Recorder of Deeds of the State of Delaware, in and for New Castle County, shall be deemed to be the true and correct maps and plots of the Town and of all the streets, boundaries, lanes and alleys thereof, 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 the State of Delaware.

2.2. Alteration of Boundaries

2.2.1. Areas or parcels of land being considered for annexation must be expressed as areas for future annexation in the most recent, State-approved Bellefonte Comprehensive Plan.

2.2.2. Annexation shall follow a procedure established by Town ordinance and shall be consistent with Title 22, Chapter 1 of the Delaware Code.

3. Powers of the Town

3.1. The Town of Bellefonte shall succeed to, own, or possess all property, whether real, personal, or mixed, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed, or enjoyed by its predecessor, "The Commissioners of Bellefonte"; being incorporated as enacted by an act of the Delaware Assembly on March 9, 1915.

3.2. The Town of Bellefonte is, according to Certification from the Delaware Secretary of State signed on February 28, 1963, a self-rule municipality, with all the powers and authority granted therein, to pass ordinances and laws to govern and serve the inhabitants of the Town; and to revise its Charter without further review or act of the Assembly.

3.3 General. 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.

3.4 Enumeration of Powers. Not by way of limitation upon the scope of the powers vested in the

Town Commission to exercise all powers delegated by this Charter to the Town (except as may expressly appear herein to the contrary), but rather by way of enumeration and for purposes of clarity, the Town Commission is vested by this Charter with the following powers, that is to say, the Town Commission:

3.4.1 May have and use a corporate seal which may be altered, changed, or renewed at pleasure;

3.4.2 May hold and acquire by gift, negotiation and purchase, devise, lease, or condemnation, property both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to, providing sites for constructing, improving, extending, altering, or demolishing of public buildings, properties and park land for the protection of the health and general welfare of the citizens of the Town; for the proper furnishing of adequate municipal services to the citizens of the Town and those persons residing in such proximity to, but beyond, the corporate limits of the Town who can be furnished with such municipal services, in the discretion of the Town Commission to the mutual benefit and advantage of the Town and such non-residents thereto, upon such terms, charges, and conditions as the Town Commission may determine and approve;

3.4.3 May sell, grant, lease, mortgage, manage, hold and control such property as the interests of the Town may require except as prohibited by the Constitution of the State of Delaware or as restricted by this Charter;

3.4.4 May pay for the acquisition, construction, improvement, repair, extension, alteration, or demolition of any municipal or public property, real, personal, or mixed, from the general fund of the Town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which lands and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the Town by any governmental entity of the United States or the State of Delaware where the proceeds of the grant or loan are for the purposes for which lands and premises are authorized by this Charter to be acquired;

3.4.5 May acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town;

3.4.6 May purchase, take and hold real and personal property when sold for any delinquent tax, or charge growing out of abatement of nuisances and the like or other charge due the Town, and to sell the same;

3.4.7 May enforce the removal of ice, snow or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners;

3.4.8 May regulate, control or prevent the use or storage of gasoline, naphtha, gunpowder, fireworks, tar, pitch, resin, and all other combustible or dangerous materials;

3.4.9 May, at the discretion of the Town Commission, contribute, donate or give an amount or amounts to any such service formed or incorporated under the laws of the State of Delaware, or to any volunteer service maintaining and operating ambulance, rescue or paramedic equipment and services for the inhabitants of the Town, provided that any such contribution, donation or gift may be made subject to such conditions and stipulations to the use thereof as the Town Commission may deem advisable;

3.4.10 May regulate Town-owned lands for commercial uses or activities not otherwise protected from such regulation or prohibition by the Constitutions of either the United States or the State of Delaware, or by any controlling federal statute;

3.4.11 May provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;

3.4.12 May prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;

3.4.13 May, by ordinance, pass laws to require the setting of standards and maintenance of private property, including the maintenance and appearance of the exterior of the domicile and/or any structure; as well as maintain the landscaping;

3.4.14 May define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and to cause the cost of such abatement or removal to be paid by the legal entity causing or permitting same to exist;

3.4.15 May adopt ordinances providing for the condemnation, upon inspection, of any building or structure in the Town which is determined, on the basis of standards set forth in such ordinance(s) to be a fire hazard or otherwise unsafe, and cause the same to be torn down or removed; and to cause the cost of such demolition and removal to be paid by the legal entity causing or permitting same to exist;

3.4.16 May 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; and to regulate the keeping of dogs within the Town, and to provide for registration and fees thereof;

3.4.17 May provide for the punishment of a violation of any ordinance of the Town by fine or imprisonment or both, not exceeding \$1,000.00 and/or thirty days imprisonment for each offense;

3.4.18 May provide for payment of any tax, license, 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;

3.4.19 May regulate and control the manner of building, moving, or removal of dwellings or other structures and to provide for granting permits for same;

3.4.20 May prohibit and prevent the carrying on of construction by private persons or companies at such times and seasons of the year and at such hours of the day as the Town Commission may determine necessary and appropriate for the public health and welfare;

3.4.21 May provide for or regulate the numbering of houses and lots on the streets and the naming of the streets and avenues;

3.4.22 May, for the prevention of fire and the preservation of the beauty of the Town, establish a building line for buildings to be erected; may zone or district the Town and make particular provision for particular zones or districts with regard to building or building materials; and may prohibit any building or construction except those for which a building permit has been issued as prescribed by the Town Commission; and generally may exercise all powers and authorities vested by virtue of 22 Del. C. Chapter 3, as it may hereafter from time to time be amended, or any future corresponding provision of law;

3.4.23 May license, tax and collect fees of such various amounts as the Town Commission from time to time shall fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation, or renting out any real or personal property, within the limits of the Town;

3.4.24 May impose, upon new development or construction or upon first time occupancy of new construction, such "impact fees" as are reasonably and proportionally calculated to recover the cost of installing, enlarging, improving, or expanding public or municipal improvements which have a rational nexus to such new construction; and/or to contribute to the costs of operations of those volunteer fire companies and/or ambulance/paramedic companies providing services within the Town;

3.4.25 May grant licenses and impose fees for licenses, issue permits, and regulate any activity within the corporate limits of the Town;

3.4.26 May regulate and control the exercise of any license or franchise mentioned in Section 4.2.41 of this Charter, or intended so to be;

3.4.27 May 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;

3.4.28 May 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;

3.4.29 May determine what purposes are deemed to be public purposes or municipal purposes;

3.4.30 May make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules, and By-Laws not contrary to the laws of this State and the United States as the Town Commission 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 order, protection and 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;

3.4.31 In addition to all other powers the Town Commission of the Town of Bellefonte may have, and notwithstanding any limitation of law, the Town Commission of the Town of Bellefonte shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with chapter 17, Title 22 of the Delaware Code relating to the Municipal Tax Increment Financing Act, and with Chapter 18 relating to Special Development Districts. Notwithstanding anything to the contrary contained in Section 1801(2)(a) and (b) of Title 22 of the Delaware Code, the machinery and equipment financed pursuant to the Municipal Tax Increment Financing section or the Special Development Districts of 4.2.48 of Chapter 176, Volume 24, Laws of Delaware may include the machinery and equipment needed to expand or enhance services provided by the Town of Bellefonte, or the State of Delaware or any agency or instrumentality thereof, or any County, local political subdivision, instrumentality, agency, body politic, utility district or similar entity within the State of Delaware, to a TIF District or a Special Development District. All provisions of Sections 10 and 13 and any other section of this Charter limiting the amounts of indebtedness to be incurred or taxes to be levied by the Town Commission of the Town of Bellefonte 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 the exercise of such powers. Bonds are non-recourse to the Town and shall only be paid from Tax Increment Financing (TIF) or Special Development Districts (SDD) assessments permitted by 22 Del. C. Chapters 17 and 18, and from (i) voluntary contributions by entities exempt from taxation and assessment for public purposes under 9 Del. C. §8105, (ii) bond proceeds on deposit in debt service reserve funds and other funds established under an indenture for such bonds, (iii) proceeds of any tax or monition sales (including accrued interest and penalties) properly allocable to unpaid TIF or SDD assessments, and (iv) any interest earnings on any of the foregoing. These bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property;

3.5 Liberal Construction; Manner of Exercise. The powers of the Town under this Charter shall be liberally construed in favor of the Town, and the enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise thereof, the Town shall have and may exercise any and all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter to specifically enumerate.

3.6 Manner of Exercising Powers. All powers of the Town, whether express or implied, shall be exercised in the manner prescribed by this Charter, or if not prescribed herein, then in the manner provided by ordinance or resolution of the Town Commission. The Commission may, by resolution, do such other act or thing incidental, necessary, or useful in connection with any of the matters in this Charter duly authorized.

3.7 Intergovernmental Cooperation. The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State of Delaware or with any agency or unincorporated subdivision thereof, or the United States or any agency thereof, except as prohibited or restricted by the Constitution or laws of the State of Delaware or by this Charter.

4 Town Government

4.1 Composition

The government of the Town, and the exercise of all powers conferred upon it by this Charter or by the laws of the State of Delaware shall be vested in a Town Commission composed of five Town Commission members, all of whom shall be elected at-large and who shall, by simple vote of those same members, decide among themselves who will serve as President and Secretary for a one-year term until the next election.

4.2 Qualifications for Office

Nominees for the offices of members of Town Commission shall be a qualified voter of the Town of Bellefonte who is at least eighteen (18) years of age, who is a United States citizen, who has not been convicted of a felony, and who has resided in the Town for at least one year prior to the day of the election. Any person elected to the

office of Town Commission member must continue, throughout the term of office, to meet these qualifications or shall forfeit the office.

4.3 Terms of Office

Each Town Commission member shall serve a term for a period of two (2) years. The terms of the Town Commission members shall be staggered so the terms of two Town Commission members expire on odd years and the terms of three Town Commission members expire on even years. The term for the Treasurer is one year. This is consistent with the terms currently in use and shall continue without disruption after passage of this Charter.

4.4 Term Limits

From the effective date of passage of this Charter, there shall be a term limit of two consecutive terms of two years for the offices of President and Secretary. The Treasurer shall have a term limit of no more than five consecutive years.

4.5 Officer Compensation

4.5.1 The Town Commission Secretary and the Treasurer shall receive reasonable compensation as set by the Town Commission in the annual budget as approved in May. Said compensation may only be adjusted during the required budget approval in May and becomes effective with the Town's fiscal year on July 1.

4.5.2 The Town Commission may, as it deems necessary and fair, pass an Ordinance to establish a monthly stipend for the President and other Town Commission members; such ordinance may not become effective until the beginning of the new terms of office.

4.6 Annual Election

The Annual Town Election shall be held on the first Tuesday in June at the Town Hall of said Town, or at such other convenient place in said Town as shall be appointed by the Town Commission by a majority vote. The polls shall be open from five o'clock p.m. to eight o'clock p.m. or for such other times as determined by a majority vote of Town Commission members. For elections during odd years, two Town Commission members will be up for election. For elections during even years, three Town Commission members will be up for election. Every year the Treasurer and Tax Collector positions will be up for election. The annual Town election shall be conducted in accordance with Delaware Municipal Election Law [Title 15, Chapter 75, subchapter IV]. A Board of Elections (BOE) shall be constituted of at least three residents according to the standards set by the Title 15, Chapter 75, subchapter IV of Delaware Code. This BOE shall be appointed by vote of the Town Commission. It shall be the duty and function of the BOE to accept Registrations of Candidacy from those intending to stand for office and to arrange election equipment, etc., with the New Castle County Board of Elections pursuant to Delaware Code. The members of the BOE shall certify the vote and announce the results of the election at the first Town Meeting following the election.

4.7 Holding Other Office.

Except where authorized by this Charter or law, no Town Commission member shall hold any other Town office or Town employment during the term for which he/she was elected to Town Commission.

4.8 Code of Ethics

In addition to and not in lieu of the code of conduct in Title 29, Chapter 58 of the Delaware Code, the Town Commission members shall:

4.8.1 - Put loyalty to the highest moral principles above loyalty to persons, party, or Government department.

4.8.2 - Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

4.8.3 - Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4.8.4 - Seek to find and employ more efficient and economical ways of getting tasks accomplished.

4.8.5 - Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

4.8.6 - Make no private promises of any kind binding upon the duties of office, since the Government employee has no private word which can be binding on public duty.

4.8.7 - Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

4.8.8 - Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

4.8.9 - Expose corruption wherever discovered.

4.8.10 - Uphold these principles, ever conscious that public office is a public trust.

4.9 Forfeiture of Office

4.9.1 Forfeiture Proceedings

A forfeiture of office shall occur when a Town Commission member:

(a) is convicted of a felony.

(b) failure to attend three (3) consecutive regular monthly meetings at any time or failure to attend four (4) regular monthly meetings in any twelve-month period.

4.9.2 Forfeiture Determination

Determinations concerning forfeiture of office shall be made by the Town Commission, but the affected party shall not have a vote in any such decision. The Town Commission determines by a simple majority vote, that a forfeiture has occurred, it shall, within forty-eight hours of that determination, provide him/her written notice thereof, stating specific reasons.

4.10 Vacancies

The office of a Town Commission member shall become vacant upon his death, resignation, or forfeiture of his office. In case of a vacancy on the Town Commission, the remaining Town Commission members may elect another qualified person to serve for the remainder of that vacant seat's term.

5. Organization of Town Commission

5.1 Organizational Meeting

At the next regularly scheduled monthly meeting following the annual election and before the newly elected Commissioners take office, the current Commissioners will hear and if necessary vote upon, previous month's minutes, bills, and reports from the Treasurer/Tax Collector, Inspectors, Board of Adjustment, Planning Commission, and Town Commissioners. The Town Commission will report and if possible act upon, any other business that commenced under said Town Commission. Upon dispensing of the current Town Commission business, the first new business addressed shall be the seating of newly elected Commissioners. Before entering upon the duties of their offices, the newly elected members of Town Commission shall be sworn, by a holdover Town Commission member, Notary Public, a Justice of the Peace, or any judge of the State of Delaware to faithfully and impartially perform the duties of their respective offices.

“I do solemnly swear (or affirm) that I will support the Constitution of the United States; the Constitution of the State of Delaware; and the Charter and Ordinances of the Town of Bellefonte, Delaware; and that I will faithfully and impartially discharge the duties of the office of _____ according to the best of my ability.”

The first action of the newly seated Town Commission shall be the election of a President and Secretary from their number to serve in that position for a term of one year. The Town Commission will further organize by assigning each Town Commissioner specific responsibilities as deemed necessary. The Town Commission will then proceed with the hearing of new business.

5.2 Duties and Powers Commission President

5.2.1 Head of Town Government

The President shall enjoy all powers afforded to Town Commission by virtue of this Charter. It shall be the duty of the President to preside at all meetings of the Town Commission, to serve as the head of the Town government for all ceremonial purposes or for purposes of military law; to appoint such standing or ad hoc committees as he or she deems necessary or appropriate, such appointments to be subject to Town Commission

confirmation, and to perform such other duties as may be prescribed by any ordinance or resolution adopted by the Town Commission. The President shall sign all warrants on the Treasurer for the payment of any Town money. The President of the Town Commission, according to Delaware code, has the authority to perform a marriage or civil union. The Town Commission has the authority and the duty to pass an ordinance(s) regarding the terms, conditions and fees related to this service, as well as for the use of the Town Hall.

5.2.2 Quorum, Vote, and Motions

For purposes of establishing a quorum, the President shall be counted as a voting member. The President shall have the same right as other Town Commission members to vote on all matters and may second a motion.

5.2.3 Negotiations and Contracts

The President, or the President's assignee, shall have the power to conduct negotiations with any one or more states or civil divisions or agencies thereof, including the government of New Castle County, other municipalities, the State of Delaware, the United States, or any agency thereof. The President may also have the authority to sign Town contracts after approval of the Town Commission, which shall be attested to by the Town Secretary.

5.3 Duties and Powers of Secretary

5.3.1 Certification of Documents

The Town Secretary shall have the power to certify Town documents including, but not limited to, the Town map, ordinances, resolutions, regulations, amendments, contracts, planning documents, rules and by-laws.

5.3.2 Town Seal

The Town Secretary shall have charge and custody of the Town Seal.

5.3.3 Records

The Town Secretary shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place.

5.3.4 Meeting Minutes

The Secretary shall keep a true and faithful record of all the proceedings of the Town Commission at all meetings.

5.3.5 Correspondence

The Secretary shall coordinate all correspondence to and from the Town Commission. Upon authorization of the Town Commission, the Secretary shall have the authority to execute letters for the Town Commission.

5.3.6 Absence

In the temporary absence of the Secretary, the President shall appoint one of the Town Commissioners as Secretary pro tempore and shall be vested with all the powers, duties, and authority of the Secretary.

5.3.7 Transfer of Responsibilities

The responsibilities and duties of the Secretary may be transferred, by ordinance, to another office or department of the government.

5.4 Duties and Powers of the Tax Collector

5.4.1 Collection and Reporting of Taxes and Other Revenue

The Tax Collector shall collect all taxes, special assessments, and fees of and for the Town. Funds collected shall be turned over to the Treasurer at the next Town Meeting and reports completed as follows:

5.4.2 Reports

5.4.2.1 **Monthly:** At the regularly scheduled monthly meeting, the Tax Collector will submit a written report to the Town Commission detailing the revenue collected, monies disbursed by payee, and balances in the Town accounts.

5.4.2.2 **Quarterly:** At the next regularly scheduled monthly meeting following the end of a calendar quarter, the Tax Collector will submit a written budget report detailing by ledger item the monies spent and remaining.

5.4.2.3 **Annual:** At the regularly scheduled June monthly meeting, the Tax Collector, in addition to the monthly report, will submit a final budget and Town accounts report.

5.5 Duties and Powers of Treasurer

5.5.1 Bond

The said Treasurer shall also within fifteen days after the date of his election and qualification for said office, and before entering upon the duties of the same give bond to "The Town of Bellefonte," with sufficient security, to be approved by the Town Commissioners of said Town in the penal sum of double the amount of what may be likely to come into his hands, conditioned for the faithful discharge of the duties of said office, and for the delivery to his successor in office of all books, papers and documents relating to his said office, and of all sums of money belonging to said Town which may remain in his possession upon the expiration of his said term of office and upon the settlement of his final account; the cost of said bond shall be paid by the said Town of Bellefonte. If the Treasurer shall fail to give bond as required by this Section, he shall thereby forfeit his office, and the office shall become vacant. Such vacancy may be filled by the appointment of the President and confirmation of the majority of the Town Commission to serve for the unexpired term.

5.5.2 Deposit of Funds

It shall be the duty of the Treasurer to deposit all monies in his/her possession, belonging to said Town in the name of the Town of Bellefonte in a banking institution selected by the Town Commission. Every effort should be made by the Treasurer to deposit funds immediately; in time for the next Town Meeting.

5.5.3 Disbursement of Funds

The Treasurer shall be the custodian of all monies belonging to said Town and shall pay out of any of said monies in his possession, all bills approved by the Town Commission, or a majority of them and presented to him for payment, and take a receipt for the same to be preserved and delivered to his successor in office.

5.5.4 Budget

The Treasurer shall assist the Town Commission in preparing an annual budget. The annual budget for the coming fiscal year shall be approved by a vote of the Town Commissioners at the May Town meeting or at a special meeting scheduled for such purpose. The new budget shall begin effective July 1st. .

5.5.5 Reports

5.5.5.1 **Monthly:** At the regularly scheduled monthly meeting, the Treasurer will submit a written report to the Town Commission detailing the revenue collected, monies disbursed by payee, and balances in the Town accounts.

5.5.5.2 **Quarterly:** At the next regularly scheduled monthly meeting following the end of a calendar quarter, the Treasurer will submit a written budget report detailing by ledger item the monies spent and remaining.

5.5.5.3 **Annual:** At the regularly scheduled June monthly meeting, the Treasurer, in addition to the monthly report, will submit a final budget and Town accounts report.

5.6 Meeting of Town Commission

5.6.1 Regular Town Meetings

The Town Commission shall hold one (1) regular Town meeting in each month on the second Monday of each month at seven p.m. The Town Commission shall not hereby be prohibited from rescheduling such meetings from time to time during the year as the need arises. At least seven (7) days in advance of the meeting, the Secretary shall post public notice and proposed agenda at Town Hall.

5.6.2 Additional Town Meetings

Additional Town meetings shall be called by the Secretary upon majority vote of Town Commission at a regular meeting, the written request of the President, or upon the written request of any two members of Town Commission, stating the day, hour and place of the meeting requested and the subject or subjects proposed to be considered. At least seven (7) days in advance of the meeting, the Secretary shall post public notice and proposed agenda at Town Hall. The Town Commission shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Town Commission has at a regular meeting.

5.6.3 Special or Rescheduled Town Meetings

Special or rescheduled Town meetings shall be defined as one to be held less than seven (7) days after the scheduling decision is made. Special or rescheduled Town meetings shall be called by the Secretary upon the written request of the President, or upon the written request of any two members of Town Commission, stating the day, hour and place of the meeting requested, the subject or subjects proposed to be considered, and explanation as to why seven (7) days notice could not be given. As soon as reasonably possible, but in any event no later than 24 hours before such meeting, the Secretary shall post written notice with explanation as to why seven (7) days notice could not be given and proposed agenda at Town Hall. The Town Commission shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Town Commission has at a regular meeting.

5.6.4 Emergency Meetings

Emergency meetings may be called by any member of Town Commission when necessary for the immediate preservation of public peace, health and safety. Public notice of meetings and quorum requirements do not apply to emergency meetings. Minutes of the meeting should properly document state of emergency requiring such a meeting.

5.6.5 Quorum

Three (3) members of the Town Commission shall constitute a quorum to do business. No ordinance shall be valid unless it shall have the affirmative vote of three (3) or more members of the Town Commission. Resolutions, orders, and motions shall be valid upon the affirmative vote of a majority of the members of the Town Commission present. No member shall be excused from voting on ordinances, resolutions, orders, or monies, except where a member of Town Commission has a conflict of interest, in which event, said member shall disqualify himself from voting. The other members of the Town Commission shall, by majority vote, be the sole judge as to whether a conflict of interest exists.

6 Planning Commission

The Town Commission has the authority, by ordinance, to establish a Planning Commission. The Planning Commission will be responsible for the creation of the Town of Bellefonte Comprehensive Plan and future update to said Plan. Once the Comprehensive Plan is adopted, the Planning Commission will serve as an advisory body to the Town Commission for all matters outlined in the Comprehensive Plan and will assume any other duties granted in the Land Use Code. The Town Commission has the authority to delegate, by ordinance, the duties and powers of the Planning Commission to New Castle County and by ordinance may reverse this delegation.

7 Board of Adjustment

The Town Commission has the authority, by ordinance, to establish a Board of Adjustment and to enumerate the powers and authority of the Board of Adjustment. The Town Commission has the authority to delegate, by ordinance, the duties and powers of the Board of Adjustment to the New Castle County Board of Adjustment and by ordinance may reverse this delegation.

8 Building and Plumbing Regulations

The Town Commission has the authority, by ordinance, to establish building and plumbing regulations and appoint inspectors or contract with an agency or private company for enforcement. The Town Commission has the authority to delegate, by ordinance, building and plumbing regulation and/or enforcement to New Castle County and by ordinance may reverse this delegation.

9 Town Attorney

The Town Attorney shall be selected by the Town Commission. The Town Attorney shall be a member of the Bar of the State of Delaware. It shall be the duty of the Town Attorney to give legal advice to the Town Commission, or other officers of the Town. He/she shall represent the Town in all legal proceedings and shall perform such other legal services as may be required of said Attorney by the Town Commission, this Charter, by law or by ordinance. The Town Commission may procure such additional legal services as it may deem necessary.

10 Authorization to Act on Behalf of the Town.

Whenever the Town Commission determines it to be in the best interest of the Town, the Town Commission may by majority vote, authorize any elected or appointed official or any employee, to execute on behalf of the Town, any or all, agreements, contracts, bonds, deeds, checks, leases and other documents necessary to be executed.

11 This Charter may be amended by the following methods:

Revision of the Charter must be initiated by a simple majority vote of the Town Commissioners. Following a decision to revise the Charter, the Town Commission will appoint at least seven members of the community to a Charter Commission; of the seven members, at least two thirds must be residents, and the remaining members may be property owners. All meetings of the Charter Commission must be duly noticed and open to the public, and minutes must be kept of proceedings. The Charter Commission will, from among its members, select a chair and secretary. The chair shall report monthly to the Town Commission on the progress of the Charter Commission. Once the Charter amendment is formulated and approved by the Charter Commission by simple majority vote, the Amendment will be referred to the Town Commission for action;

The Town Commission shall hold at least two public hearings, to be held at least 30 days apart, noticed as required by Delaware Code, and printing the amendment in its entirety in a newspaper of recognized circulation. At these public hearings, the amendment may have its first and second public hearings and the public shall be afforded the opportunity to present verbal or written arguments for or against the revision. Public comments may be limited in length by agreement of the Town Commissioners and advertised in the public notice and at the public hearing itself. After the second public hearing, the Town Commissioners may vote to approve the amendment, provided there is a quorum of Town Commissioners under their regular meeting rules; or the vote of approval may be held at the next regular monthly meeting of the Town Commissioners. Before the vote takes place, Commissioners may request review of public comments from the minutes or from written arguments presented. After discussion, the Town Commission will take a simple majority vote to close the discussion and vote. From among the Commissioners, a motion must be made to approve the amendment as written, and seconded. As the Commissioners vote, they must state the reasons for their decision to vote for or against the amendment. This will become part of the permanent record of the amendment proceedings. Once approved, the Town Commission may:

Vote to refer the amendment to the Delaware Legislature for approval, as provided for in Delaware Code; or

Vote to hold a public referendum to gain approval of the amendment (pursuant to the authority granted Bellefonte by the Home Rule Act of Delaware. In this election, copies of the amendment may be required to be mailed to all residents and landowners by first class mail. On the day chosen and advertised as required by Delaware Code, a vote must be held under provisions of the Delaware Municipal Election Act; requiring the use of electronic voting machines. This referendum of the amendment requires that at least ten percent (10%) of the registered voters in Bellefonte participate in the vote.

Once approved by one of these methods, the Town Attorney, is compelled to provide the results of the process as well as the revised Charter or amendment (or both) to the Secretary of State.

12 Eminent Domain

The Town Commission has the authority to use private property within the corporate limits of the Town for any of the purposes authorized by this Charter. The proceedings for such condemnation shall be as prescribed in 10 Del.C. Chapter 61 or any future corresponding provision of law. The right of condemnation shall not extend to property owned by the United States, the State of Delaware, the County of New Castle or any agency thereof.

13 Indemnification

The Town shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by appropriate insurance, any person who is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Town of Bellefonte itself) by reason of the fact that he or she is or was a member of the Town Commission,

President or other duly elected or appointed Town official or employee of The Town of Bellefonte, or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement, actually and reasonably

incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonable believed to be in or not opposed to the best interest of the Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonable believed to be in or not opposed to the best interest of the Town of Bellefonte and with respect to any criminal action or proceeding had reasonable cause to believe that his or her conduct was unlawful; provided, however, that in the event of a monetary settlement, the Town Commission shall first approve the amount and terms of the settlement before the right to indemnification shall vest.

Indemnification as provided in this section shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the members of the Town Commission President and/or employees is proper in the circumstances because he or she met the applicable standards of the conduct set forth above. Such determination shall be made:

By a majority vote of a quorum of the Town Commission consisting of Town Commission members who are not parties to such action, suit or proceeding, or if such quorum is not obtained, by independent legal counsel in a written opinion.

14 Limitation of Liability

No claim or cause of action shall arise, and no judgment, damages, penalties, cost or other money entitlement shall be awarded or assessed against The Town of Bellefonte, or any board, commission or agency of the Town, or any Town public officer, employee or member of such Town body, whether elected or appointed, and whether now or previously serving as such, in any civil suit, or before any administrative tribunal on any and all tort claims seeking recovery of damages, unless made pursuant to Sub chapter II, entitled 'County and Municipal Tort Claims', consisting of Section 4010-4013, Title 10 of the Delaware Code or its successor

15 Separability

If any section, sub-section, paragraph, sentence, clause or other provision of this Charter shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions, sections, sub-sections, paragraphs, sentences, clauses or other provisions of this Charter.

The President and Commissioners holding office on the effective date of this Charter shall continue as the President and Commissioners until their successors are elected and qualify pursuant to the first general election provided hereunder.

The Treasurer holding office on the effective date of this Charter shall continue to be Treasurer without a vote on the Town Commission. If a Town Commission vacancy exists on the effective date of this Charter or on the Town Commission any time prior to first general election after this Charter is effective, such vacancy shall be filled by the Commission (See Vacancy).

All appointed officials of The Town of Bellefonte at the time this Charter goes into effect shall continue in such position and shall draw the same rate of compensation as during the month preceding the adoption of this Charter until removed or until the compensation is changed.

16 Legislative Schedule

Board of Elections: Named in March and sworn in April.

Auditor: Named in May Meeting

Swearing in of New Officers: June Meeting, after Old Business

Budget: Passed at June meeting and becomes effective July 1.

Approved August 08, 2014