



SPONSOR: Rep. Carson & Sen. Hoffner

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 198

AN ACT TO AMEND THE TOWN CHARTER OF THE TOWN OF CLAYTON.

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

1 Section 1. Amend the Town of Clayton Charter by making deletions as shown by strike through and insertions as
2 shown by underline as follows:

3 Article I: Incorporation

4 Section 1.1 - Body Corporate

5 The inhabitants of the "Town of Clayton" within the corporation limits as defined in Section 1.2 as the same may
6 ~~from time to time~~ time-to-time hereafter be revised, shall be known as the "Town of Clayton" and are hereby continued as a
7 municipal corporation and body politic in law and in equity and under that name shall have perpetual succession.

8 Section 1.2 - Boundaries

9 ~~(a) The boundaries of the Town of Clayton are hereby established and declared to be the same boundaries and~~
10 ~~limits that have been heretofore determined and as are designated and delineated on a plot of the Town of Clayton of record~~
11 ~~in the Office of the Recorder of Deeds, at Dover in Deed Book 4, Volume 7, Page 88, and such other premises and real~~
12 ~~property as the Town has from time to time acquired.~~

13 ~~(b) The Council of the Town of Clayton may, at any time hereafter, cause a survey and plot to be made of the said~~
14 ~~boundaries and the said plot, when made and approved by the Council, may be recorded in the Office of the Recorder of~~
15 ~~Deeds, at Dover, State of Delaware, and the same, shall constitute the boundaries of the Town of Clayton.~~

16 The limits and boundaries of the Town of Clayton in Kent and New Castle County, Delaware, shall be as
17 previously fixed and established or hereafter altered according to law and shall be marked and defined according to maps
18 and plots now of record or hereafter recorded in the Offices of the Recorder of Deeds in and for Kent and New Castle
19 Counties pursuant to lawful annexation proceedings. Such maps and plots, when so made and approved by Town Council,
20 and when recorded in the Offices of the Recorder of Deed in and for Kent and New Castle Counties, shall be deemed to be
21 the true and correct maps and plots of the Town and of all the streets, boundaries, lanes, and alleys thereof, and the same, or

22 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
23 Delaware.

24 Section 1.3 - Annexation

25 ~~If and when two-thirds (2/3) of the property owners in unincorporated territory contiguous to the Town of Clayton~~
26 ~~shall sign a petition seeking to have the area in which said property owners reside annexed to the Town of Clayton and~~
27 ~~submit the petition together with a survey of the area proposed for annexation to the Town of Clayton, the said Council may~~
28 ~~submit the question of annexation or any question pertaining to annexation to the voters of the Town of Clayton and the~~
29 ~~question shall be determined by a two-thirds (2/3) majority of said voters voting at an election to be held for that purpose in~~
30 ~~such manner by such persons and with such notice as the Council of the Town of Clayton shall determine by resolution.~~

31 Consistent with 22 Del. C. Chapter 1 of the Delaware Code, the Mayor and Council shall have the power to annex
32 any contiguous territory upon the petition of two-thirds of the property owners of such contiguous territory, and to extend
33 and apply thereto all laws, ordinances, resolutions, rules and regulations in force within the State of Delaware and said
34 Town, so far as the same may be legally applicable.

35 Article II: Powers Of Town

36 2.1— Powers of Town

37 ~~(a) The Council of the Town of Clayton shall have all the powers granted to municipal corporations and to towns~~
38 ~~by the Constitution and general laws of the State of Delaware, together with all the implied powers necessary to carry into~~
39 ~~execution all the powers granted. The Town Council of Clayton shall continue to enjoy all powers which have been granted~~
40 ~~to it by special acts of the General Assembly of the State of Delaware, except insofar as they may be repealed by the~~
41 ~~enactment of this Charter. The Council members of Clayton, as a body politic and corporate, shall succeed to, own or~~
42 ~~possess all property whether real, personal, or mixed, and all the rights, privileges, franchises, powers and immunities now~~
43 ~~belonging to, possessed by, or enjoyed by the former corporation known as "The Town of Clayton".~~

44 ~~(b) The Town of Clayton may have and use a corporate seal; may sue and be sued; may acquire property within or~~
45 ~~without its corporate limits by purchase, gift, devise, lease or condemnation, for the purpose of providing sites for public~~
46 ~~buildings, parks, sewer system, sewage treatment plant, water system, electric system, water plant, gas system, or other~~
47 ~~municipal purposes, and may sell, lease, mortgage, hold, manage and control such property or utility as its interest may~~
48 ~~require. And, except as prohibited by the Constitution of the State of Delaware or restricted by this Charter, the Council of~~
49 ~~Clayton shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and~~
50 ~~nature whatsoever.~~

51 (e) ~~The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in~~
52 ~~addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof; it is intended that the~~
53 ~~Council of Clayton shall have and may exercise all powers which, under the Constitution of the State of Delaware, it would~~
54 ~~be competent for this Charter specifically to enumerate all powers of the Town, whether expressed or implied, shall be~~
55 ~~exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in a manner provided by ordinance or~~
56 ~~resolution of the Council.~~

57 (d) ~~This Charter shall be construed liberally in favor of the Town, and nothing in this Charter shall be construed in~~
58 ~~exempting any individual or agency from the operation of this Section.~~

59 2.1 - General

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

62 2.2 - Enumeration of Powers

63 The Town Council may exercise all powers delegated by this Charter to the Town (except as may expressly appear
64 herein to the contrary) by way of enumeration, and not by way of limitation, the Town Council is vested by this Charter
65 with the following powers:

66 2.2.1 - May have and use a corporate seal which may be altered, changed, or renewed at pleasure.

67 2.2.2 - May hold and acquire by gift, negotiation and purchase, devise, lease, or condemnation, property both
68 real (improved or unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee or lesser
69 estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to, providing
70 sites for constructing, improving, extending, altering, or demolishing:

71 (a) public buildings;

72 (b) parks;

73 (c) streets, squares, lanes, alleys, and sidewalks;

74 (d) sewer systems, including but not limited to sewage lines, conduits, sewage disposal, or treatment
75 plants, and all appurtenances thereto;

76 (e) electric systems, including but not limited to electric plants, substations, distribution systems, lines,
77 conduits and all appurtenances thereto;

78 (f) gas systems, including but not limited to storage tanks, distribution systems, conduits and all
79 appurtenances thereto;

80 (g) recreational facilities, including but not limited to public swimming pools, gymnasiums, athletic
81 fields, bicycle paths, tennis, basketball, or paddle ball courts and all appurtenances thereto;

82 (h) for slum clearance and redevelopment, urban renewal, revitalization, or rehabilitation of blighted
83 areas or removal of dangerous buildings;

84 (i) for the protection of the health of the citizens of the town;

85 (j) for the proper furnishing of adequate municipal services to the citizens of the Town and those persons
86 residing in such proximity to, but beyond, the corporate limits of the Town who can be furnished with such
87 municipal services, in the discretion of the Town Council, to the mutual benefit and advantage of the Town and
88 such non residents thereto, upon such terms, charges, and conditions as the Town Council may determine and
89 approve.

90 2.2.3 - May sell, grant, alienate, lease, mortgage, manage, hold, and control such property as the interests of
91 the Town may require except as prohibited by the Delaware Constitution or as restricted by this Charter.

92 2.2.4 - May pay for the acquisition, construction, improvement, repair, extension, alteration, or demolition of
93 any municipal or public property, real, personal, or mixed, from the general fund of the Town, from any special fund of
94 the Town, established for that purpose, from the proceeds of any borrowing or bond issue which may be authorized
95 and/or sold for any of the purposes for which Town funds are authorized by this Charter to be expended, and/or from
96 the proceeds of any grant or loan made to the Town by any governmental entity of the United States or the State of
97 Delaware where the proceeds of the grant or loan are for the purposes for which Town funds are authorized by this
98 Charter to be expended.

99 2.2.5 - May acquire, build, erect and maintain buildings and facilities necessary or required for housing and
100 equipping the offices of the Town.

101 2.2.6 - May purchase, take, and hold real and personal property when sold for the collection of any delinquent
102 tax, assessment, sewer bill, electric bill, trash collection fee, license fee, tapping fee, charge growing out of abatement
103 of nuisances, and the like, laying out, and repairing sidewalks, or other charges due the Town, and to sell the same.

104 2.2.7 - May ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and
105 enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve,
106 dredge, erect, remove, repair and replace any new or present street, highway, lane, alley, watercourse, park, lake,
107 crosswalk, sewer, drain, gutter, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb, or gutter
108 or portion thereof in the Town; may specify the grade thereof, the materials to be used in the doing thereof and the
109 manner in which the same shall be done; may enter into contracts or agreements for the doing thereof, including

110 contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street,
111 lane, alley, roadway, or other public thoroughfares within the Town.

112 2.2.8 - May enforce the removal of ice, snow, dirt, or other foreign substance from sidewalks by owners or
113 abutting owners.

114 2.2.9 - May prohibit, remove, or regulate the erection of any stoop, step, platform, bay window, cellar door,
115 gate, area, descent, sign, post, or any other erection or projection in, over, upon, or under any street, highway, alley,
116 lane, water course, park, lake, strand, sidewalk, crosswalk, sewer, drain, aqueduct, or pipeline of the Town.

117 2.2.10 - May provide, construct, extend, maintain, manage, and control bulkheads, embankments, flood gates,
118 or fills for the preservation of any strand or high land within the limits of the Town or contiguous thereto to the end
119 that the same may be preserved and properly protected that the public might enjoy the use thereof.

120 2.2.11 - May direct, regulate, and control the planting, rearing, treatment, and preserving of ornamental shade
121 trees in the streets, avenues, highways, parks, and grounds of the Town and may authorize or prohibit the removal or
122 destruction of said trees.

123 2.2.12 - May fully control within the Town the drainage of all water and to that end may alter or change the
124 course and direction of any natural watercourse, runs, or rivulet within the Town, may regulate, maintain, clean, and
125 keep the same open, clean, and unobstructed, and may provide, construct, extend and maintain, manage, and control a
126 surface water drainage system and facilities for the health, sanitation, and convenience of the inhabitants of the Town.

127 2.2.13 - May provide, construct, extend, maintain, manage, and control a sewer system and/or a sewage
128 treatment and disposal plant and facilities for the health, sanitation, and convenience of the inhabitants of the Town;
129 may regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use,
130 the amounts to be paid by the users thereof, the means whereby such amounts shall be collected, and the fines or
131 penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plant or
132 facilities; may furnish or refuse to furnish sewer disposal service from the Town system to places and properties
133 outside the Town limits. In the interest of the public's health, may compel any and all properties in the Town to be
134 connected to the sewer system of the Town; and may contract for and purchase sewer disposal service and to resell the
135 same to users within or without the Town with the same full powers as though such service had been initially provided
136 by the facilities therefor of the Town itself.

137 2.2.14 - May provide, construct, extend, maintain, manage, and control the plant and system, or plants and
138 systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the
139 Town and for lighting the streets, highways, lanes, alleys, water courses, parks, lakes, sidewalks, public buildings or

140 other public places in the Town, and to this end may acquire, lease, erect, construct, maintain, operate, extend, enlarge,
141 renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any
142 such current or gas as may be necessarily proper to light the Town, and may furnish proper connections for electric
143 current and gas to the properties of the inhabitants of the Town who may desire the same; may regulate and prescribe
144 for what private or public purpose the current or gas furnished by the Town may be used, the manner of its use, the
145 amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties,
146 or both, for any willful or negligent injury or damage to or interference with the electric or gas system or systems of the
147 Town; may furnish or refuse to furnish electric current or gas from the Town's system or systems, to places and
148 properties outside the Town limits; and may contract for and purchase electric current or gas and distribute the same to
149 users within or without the Town with the same full powers as though such current or gas had been initially generated
150 or reduced to usefulness by the Town itself.

151 2.2.15 - May regulate, control, or prevent the use or storage of gasoline, naphtha, tar, pitch, resin, and all other
152 combustible or dangerous materials.

153 2.2.16 - Subject to the authority of the State Fire Commission, or some successor state agency having
154 authority thereover, may do all things necessary for the prevention or extinguishment of fires; and at the discretion of
155 the Town Council, may contribute, donate or give an amount or amounts to any volunteer fire company or companies
156 incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and
157 operating fire fighting equipment and service to the Town, provided that any such contribution, donation or gift may be
158 made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable.

159 2.2.17 - Subject to the authority of the State Fire Commission or such similar or successor state agency having
160 authority thereover, may, at the discretion of the Town Council, contribute, donate, or give an amount or amounts to
161 any ambulance, rescue, or paramedic services(s) formed or incorporated under the laws of the State of Delaware, or to
162 any volunteer service maintaining and operating ambulance, rescue or paramedic equipment and services for the
163 inhabitants of the Town, provided that any such contribution, donation or gift may be made subject to such conditions
164 and stipulations to the use thereof as the Town Council may deem advisable.

165 2.2.18 - May prohibit gaming and fraudulent devices.

166 2.2.19 - May prevent and quell riots, disturbances, and disorderly assemblages.

167 2.2.20 - May adopt and enforce such ordinances regulating traffic on all streets, alleys, avenues, and public
168 ways within the Town as are not inconsistent with the motor vehicle laws of the State of Delaware.

169 2.2.21 - May regulate or prohibit the use of public streets, alleys, sidewalks, parks, right of ways, public
170 places, and Town owned lands for commercial uses or activities not otherwise protected from such regulation or
171 prohibition by the Constitutions of either the United States or the State of Delaware, or by any controlling federal
172 statute.

173 2.2.22 - May regulate or prevent the use of bonfires, fireworks, bombs, and detonating works of all kinds.

174 2.2.23 - May provide for and preserve the health, peace, safety, cleanliness, ornament, good order, and public
175 welfare of the Town and its inhabitants.

176 2.2.24 - May prohibit, restrain, license, or regulate all public sports, exhibitions, shows, parades, productions,
177 circuses, or other public performances, amusements, and games.

178 2.2.25 - May direct the digging down, draining, filling up, cleaning, cutting, or fencing of lots, tracts, pieces,
179 or parcels of ground in the Town which may be deemed dangerous or necessary to carry out any improvements
180 authorized by this Charter and to assess the cost thereof against the owner thereof.

181 2.2.26 - May define, prevent, abate, or remove nuisances, obstructions, or any other condition detrimental to
182 the public safety, health, or welfare; and may cause the cost of such abatement or removal to be paid by the legal entity
183 causing or permitting same to exist.

184 2.2.27 - May adopt ordinances providing for the condemnation and/or razing, upon inspection, of any building
185 or structure in the Town, which is determined, on the basis of standards set forth in such ordinance(s), to be a fire
186 hazard or otherwise unsafe and cause the same to be torn down or removed.

187 2.2.28 - May establish and regulate pounds and may restrain, prohibit, and impound any domestic or wild
188 animal, beast, bird, or fowl running at large; may regulate the keeping of dogs within the Town and may provide for
189 registration and fees thereof.

190 2.2.29 - May provide for the punishment of a violation of any ordinance of the Town by fine, as prescribed by
191 the pertaining ordinance.

192 2.2.30 - May acquire, build, erect, and maintain a suitable place as a lock up or jail for the Town which may
193 be used as a place for temporary detention of persons convicted of violations of law or for detention of persons accused
194 of violations of law, for a reasonable time in cases of necessity prior to hearing and trial; provided that any correctional
195 institution located in Kent County may be used for any such purpose.

196 2.2.31 - May provide for payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge, or
197 other amounts due the Town by the performance of labor or service for the Town by any person owing the same.

198 2.2.32 - May regulate and control the manner of building, moving, or removal of dwellings or other structures
199 and may provide for granting permits for same.

200 2.2.33 - May prohibit and prevent the carrying on of construction by private persons or companies at such
201 times and seasons of the year and at such hours of the day as the Town Council may determine necessary and
202 appropriate for the public health and welfare.

203 2.2.34 - May provide for or regulate the numbering of houses and lots on the streets and the naming of the
204 streets and avenues.

205 2.2.35 - May, for the prevention of fire and the preservation of the beauty of the Town, establish a building
206 line for buildings to be erected; may zone or district the Town and make particular provision for particular zones or
207 districts with regard to building or building materials; and may prohibit any building or construction except those for
208 which a building permit has been issued as prescribed by the Town Council; and generally to exercise all powers and
209 authorities vested by virtue of 22 Del.C. Chapter 3, as it may hereafter from time to time be amended, or any future
210 corresponding provision of law.

211 2.2.36 - May license, tax, and collect fees annually for any and all municipal purposes of such various
212 amounts as the Town Council from time to time shall fix from any individual, firm, association, or corporation carrying
213 on or practicing any business, profession, or occupation within the limits of the Town.

214 2.2.37 - May impose, upon new development or construction or upon first-time occupancy of new
215 construction, such "impact fees" as are reasonably calculated to recover the cost of installing, enlarging, improving, or
216 expanding public or municipal improvements which have a rational nexus to such new construction.

217 2.2.38 - May grant licenses and impose fees for licenses, issue permits, and regulate any activity within the
218 corporate limits of the Town.

219 2.2.39 - May grant franchises or licenses to any responsible person, firm, association, or corporation for such
220 period of time, upon such terms, restrictions, stipulations, and conditions and for such consideration as the Town
221 Council shall deem in the best interest of the municipality, to use the present and future streets, highways, lanes, alleys,
222 parks, sidewalks, and other public places of the Town for the purpose of furnishing heat, Light, power, gas, sewer,
223 drainage, electric current, telephone, telegraph, television, railroad (excepting railroads or railways engaged in
224 Interstate Commerce), bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or
225 corporations residing or located therein and for the purpose of transmitting the same from or through the Town to
226 points outside the limits thereof; provided, however, that whenever any state or federal law grants exclusive
227 jurisdiction over any such activity to a state or federal agency, the Town shall have no authority inconsistent therewith.

228 2.2.40 - May regulate and control the exercise of any license or franchise mentioned in Section 2.2.39 of this
229 Charter.

230 2.2.41 - May appropriate money to pay the debts, liabilities, and expenditures of the Town, or any part or item
231 thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the
232 Town in case of emergency as allowed by state law and Town ordinances.

233 2.2.42 - May inquire into and investigate the conduct of any officer, agent, or employee of the Town or
234 authorized municipal activities and for such purpose or purposes may subpoena witnesses, administer oaths or
235 affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by
236 subpoena.

237 2.2.43 - May establish a Pension, Health, Retirement, and/or Welfare Plan for the employees of the Town
238 under such terms and conditions as the Town Council, at its discretion, may deem most appropriate. The method of
239 funding may, if deemed desirable by the Town Council, be accomplished through an insurance company licensed by
240 the State of Delaware or authorized to do business in this State and approved by a majority of the elected members of
241 the Town Council.

242 2.2.44 - May by ordinance provide for and establish a tax on the transfer of real estate within the Town similar
243 in nature and effect as the “Delaware Realty Transfer Tax” established in accordance with 30 Del. C. Chapter 54 as it
244 may from time to time hereafter be amended, or in accordance with any future corresponding provision of law, but at
245 all times in conformity with the provisions of any controlling general statute of the State governing municipal realty
246 transfer taxes.

247 2.2.45 - May determine what purposes are deemed to be public purposes or municipal purposes.

248 2.2.46 - May have the power to lay and collect fines on the owners of any animal which may be found at large
249 in any of the streets, squares, lanes, or alleys aforesaid, and in general shall have the power to do all those matters and
250 things for the well-being of the said Town, which shall not be in contravention of any existing laws of this State or the
251 Delaware Constitution thereof.

252 2.2.47 - May regulate by ordinance or otherwise the sale of goods, wares, and merchandise on the streets and
253 sidewalks within the Town of Clayton and fix the license fee thereof and the penalty for not paying the said fee or the
254 breach of any other provisions of such ordinance or regulation and in all other respects regulate commerce within the
255 Town of Clayton.

256 2.2.48 - May fix and declare and regulate the width of party walls, to provide for the safety of the citizens and
257 for that purpose may prescribe the heights, thickness of walls and materials of buildings and the mode of erecting the

258 same within said Town; and for providing for and securing the safety of the occupants thereof and make provisions for
259 the enforcement of such regulations.

260 2.2.49 - May provide for the lighting of streets at the expense of the Town, and generally to prescribe and
261 regulate the use of the streets, lanes, and alleys of the Town and to have and exercise control over the same.

262 2.2.50 - May make, adopt, establish, alter and amend all such Ordinances, Regulations, Rules, and By Laws
263 not contrary to the laws of this State and the United States as the Town Council may deem necessary to carry into
264 effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or
265 which they may deem proper and necessary for the order, protection, and good government of the Town, the protection
266 and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants;
267 provided, however that any Ordinance relating to the public health of the Town and its inhabitants or designed to
268 prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same shall
269 apply not only within the corporate limits of the Town but as well to all areas and persons outside the Town.

270 2.3 - Liberal Construction; Manner of Exercise.

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

275 2.3.1 - All powers of the Town, whether express or implied, shall be exercised in the manner prescribed by
276 this Charter, or if not prescribed herein, then in the manner provided by ordinance or resolution of the Town Council.
277 The Council may, by resolution, do such other act or thing incidental, necessary, or useful in connection with any of
278 the matters duly authorized by this Charter.

279 ~~2.2~~ 2.4 - Intergovernmental Relations

280 The Town of Clayton may exercise any of its powers or perform any of its functions and may participate in the
281 financing thereof, jointly or in cooperation. by contract or otherwise, with any one or more states or civil divisions or
282 agencies thereof, of the United States or any agency thereof, thereof, except as prohibited or restricted by the Delaware
283 Constitution or laws of the State of Delaware or by this Charter.

284 Article III: Structure Of Government

285 3.1 - Organization

286 The government of the Town of Clayton and the exercise of all powers conferred by this Charter, except as
287 otherwise provided herein, shall be vested in five (5) Councilmen (two of whom shall be by them chosen as President and
288 Vice-President).

289 3.2 - Qualifications of Council

290 Any person at least twenty-one (21) years of age, who, for a period of at least fifteen (15) years immediately
291 preceding ~~his/her~~ their election, has not been convicted of a felony, as that crime is designated by the State of Delaware,
292 and who is a bona fide domiciliary of the Town as provided in Section 12.2.2 of this Charter shall be eligible to hold the
293 office of Council member.

294 3.3 - Term of Office

295 Council members shall be elected to serve a term of ~~two (2) years~~ 2 years, all effective with the organizational
296 meeting following their election.

297 3.4 - Council Prohibitions

298 Except where authorized by law, no Council member shall hold any other town office or town employment during
299 the term for which ~~he/she was~~ they were elected to the Council, and no former Council member shall hold any compensated
300 appointive town office or employment until one (1) year after the expiration of the term for which ~~he/she was~~ they were
301 elected to Council.

302 3.5 - Vacancies and Forfeiture of Office

303 ~~(a) The office of a Council member shall become vacant when the following occurs: (1) Upon his/her death; (2)~~
304 ~~Resignation; (3) Removal from office in any manner authorized by law, or forfeiture of his/her office. The Council member~~
305 ~~shall forfeit his/her office if he/she lacks at any time during his/her term office any qualification for the office prescribed by~~
306 ~~this Charter or by law; (4) Violates any express prohibition of this Charter; (5) Is convicted of a crime involving a felony as~~
307 ~~that crime is designated by the laws of the State of Delaware; (6) Fails to attend three consecutive Town meetings without~~
308 ~~being excused, which 'Town meetings' include regular meetings of the Town Council, special council meetings called by~~
309 ~~the Mayor, and meetings of committees to which a Council member has been appointed; (7) Is physically, mentally or~~
310 ~~emotionally incapable of performing the functions of his/her office, or (8) Except in the case of an emergency, a Council~~
311 ~~member may be excused from a Town meeting only upon prior written notice to the Council. A Council member shall be~~
312 ~~excused only for: illness of the Council member; a death or other documented emergency in the Council member's~~
313 ~~immediate family; the birth of a child of the Council member which coincides with the time of a Council meeting; a~~
314 ~~wedding in the Council member's immediate family; or such other exceptional circumstance as the President determines is~~
315 ~~appropriate, on a case-by-case basis, to excuse the Council member.~~

316 (b) ~~The Council, by the majority of vote of all its members shall appoint a qualified person to fill the vacancy. A~~
317 ~~vacancy shall be announced at a regular Council meeting and a vote on a person to fill the vacancy shall not be held before~~
318 ~~the next following regular Council meeting. Despite the quorum provisions hereof, if at any time, the membership of the~~
319 ~~Council is reduced to less than three (3) the remaining members may, by majority action, appoint additional members to~~
320 ~~raise the membership to five (5).~~

321 3.5.1 - Vacancies:

322 The office of Mayor or Council member shall become vacant upon their death, resignation, lawful removal
323 from, or forfeiture of their office.

324 3.5.2 - Forfeiture proceedings:

325 A forfeiture of office shall occur when the Mayor or any Council member:

326 (a) Lacks, at any time during their term of office, any qualification for their office prescribed by this
327 Charter or by law.

328 (b) Willfully violates any express prohibition of this Charter.

329 (c) Is convicted of a felony.

330 (d) Fails to attend three consecutive regular council meetings without being excused by council.

331 (e) Is physically, mentally, or emotionally incapable of performing the functions of their office.

332 (f) Ceases to be a bona fide resident of the Town.

333 3.5.3 - Determination concerning forfeiture:

334 Forfeiture shall be automatic where the conditions set forth in 3.5.2(c), (d), or (f) occur. Where the conditions
335 set forth in 3.5.2(a), (b), or (e) are alleged to have occurred, a determination concerning such alleged forfeiture shall be
336 made by the Council, but the affected party shall not have a vote in any such decision. Such deliberations may be had
337 in executive session, and if the Council preliminarily determines by a unanimous vote of the Council members entitled
338 to vote on the question, that forfeiture has occurred it shall, within 48 hours of that determination, provide written
339 notice thereof to the affected Council member, stating specific reasons. The affected party shall then have ten days in
340 which to make a written demand for a public hearing before the Council, to be held within twenty days of the written
341 demand, at which hearing he or she may appear with the assistance of counsel and present evidence to the relevant
342 issues. Thereafter, the council shall hear any other relevant evidence and vote again on the question of forfeiture; and if
343 a determination of forfeiture is again made by a unanimous vote of the disinterested Council members entitled to vote
344 on the question, the decision shall be final.

345 3.5.4 - Failure to request hearing as a bar:

346 Failure of the affected person to make written demand for a public hearing as hereinabove stated shall be an
347 absolute bar to the right to challenge the Council's decision. During, or in connection with, any such proceedings, the
348 Council shall have the authority to subpoena witnesses, administer oaths, take testimony, and require the production of
349 documentary or physical evidence, all of which shall be done if requested in writing by the affected person.

350 3.5.5 - Filling vacancies on the Town Council:

351 In the case of any vacancy occurring on the Town Council, the remaining Council members shall appoint a
352 qualified person to serve for the remainder of that vacant seat's term. If the vacancy on Council was of the person
353 serving as Mayor or Vice-Mayor, immediately following the appointment of a qualified person to serve the remainder
354 of that vacant seat's term, the Town Council shall hold a re-organization meeting to elect a new Mayor and/or Vice-
355 Mayor as the case may be.

356 3.6 - Judge of Qualifications of Members

357 The Council shall be the judge of the ~~election and~~ election, the qualifications of its ~~members~~ members, and of the
358 grounds for forfeiture of their office, and for such purposes, shall have the power to subpoena witnesses, take testimony,
359 and require the production of records. ~~A member charged with conduct constituting grounds for forfeiture of his/her office~~
360 ~~shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of~~
361 ~~general circulation in the Town at least one (1) week in advance of the hearing.~~ Decisions made by the Council under this
362 section shall be subject to review by the courts.

363 3.7 - Compensation

364 The Council shall determine the annual salary of the Council members by ordinance. but no ordinance increasing
365 such salary shall become effective until the date of commencement of the terms of members of the Council elected at the
366 next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months.
367 Members of the Council may receive reimbursement for actual necessary expenses incurred in traveling when on official
368 business.

369 3.8 - Meetings of Council

370 (a) The members of the Town Council shall meet for the purpose of organization on the second Monday evening
371 in May following their ~~election~~, election or appointment pursuant to section 3.5.5 of this Charter and shall organize by the
372 election of a President, a Vice-President, a Secretary, and a Treasurer and such other officers as shall be found necessary.
373 All officers of the Town of Clayton shall be members of the Council. The Council shall meet regularly at least once a
374 month thereafter. No member of Council shall hold more than one (1) elective office during any term of office.

375 (b) Such regular meeting shall be held on the second Monday evening of each month; additional meetings may be
376 held as provided by the Town ordinance, upon the written request of 2 Councilmembers, or whenever the President may
377 deem it expedient. All meetings shall be open to attendance by the public, provided, however, the Council may recess for
378 the purpose of ~~discussing in an executive session limited to its own membership any question which would tend to defame~~
379 ~~or prejudice the character or reputation of any person, or would tend to jeopardize the position of the Town in any action~~
380 ~~under consideration, provided that the general subject matter for consideration is expressed in the motion calling for such~~
381 ~~session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.~~ executive
382 session subject to any applicable law.

383 3.9 - Terms of Office

384 The term of office of all officers shall be one (1) year after their respective election and until their respective
385 successor shall be duly elected and qualified.

386 3.10 - Council President

387 (a) ~~The President shall be the executive of the Town of Clayton. The President shall also be known as the Mayor~~
388 ~~of the Town of Clayton. The President shall serve as the head of the Town government for all ceremonial purposes and for~~
389 ~~purposes of military law. He/she shall preside at meetings of the Council, and shall have vote therein. He/she shall execute~~
390 ~~on behalf of the Town, when authorized by the Council, all agreements, contracts, bonds, deeds, leases, and other~~
391 ~~documents necessary to be executed. He/she shall appoint all chairpersons, other non-elected officers, town solicitor and~~
392 ~~such other persons as he may deem expedient and necessary, and all committees subject to Council confirmation. He/she~~
393 ~~shall sign all warrants authorized by the Council and drawn on the Treasurer for the payment of money. He/she shall issue~~
394 ~~and sign all licenses for every exhibition with the Town of Clayton for which a license thereof is, or may be required.~~
395 ~~He/she shall have all and every power conferred and perform all duties imposed upon him/her by this Charter and the~~
396 ~~ordinances of the Town of Clayton.~~

397 (b) ~~The President shall have the same right as other officers and Council members to vote on all matters and may~~
398 ~~at any time appoint another officer or Council member to preside if he desires to make a motion, move the adoption of a~~
399 ~~resolution, record either, or debate any question from the floor, and may thereafter immediately issue his duties as presiding~~
400 ~~officer. For purposes of establishing a majority vote, the President shall be counted as a member of Council. 68 Del. Laws,~~
401 ~~e. 282~~

402 3.10.1 - The President shall be the chief executive of the Town of Clayton. The President shall also be known
403 as the Mayor of the Town of Clayton. The Mayor shall have all and every power conferred and perform all duties
404 imposed upon him/her by this Charter and the ordinances of the Town of Clayton. It shall be the duty of the Mayor to

405 preside at all meetings of the Town Council, to serve as the head of the town government for all ceremonial purposes
406 or for purposes of military law; and to perform such other duties as may be prescribed by any ordinance or resolution
407 adopted by the Town Council. The Mayor shall have the same right as other Council members to vote on all matters
408 and may at any time appoint another Council member to preside if they desire to make a motion, move the adoption of
409 a resolution, or second either, and may thereafter, immediately resume their duties as presiding officer. They shall
410 preside at meetings of the Council and shall have a vote therein. They shall execute on behalf of the Town - when
411 authorized by the Council, all agreements, contracts, bonds, deeds, leases, and other documents necessary to be
412 executed. However, they shall not, at a later date, after signing such contracts, bonds, deeds, leases, or other
413 documents, amend them without the advice and consent of the Council by majority vote. They shall appoint non-
414 elected officers, a town solicitor, and such other persons as he may deem expedient and necessary. They shall sign all
415 warrants and payments authorized by the Council. They shall issue and sign all licenses for every exhibition with the
416 Town of Clayton for which a license thereof is or may be required. For purposes of establishing a majority vote or
417 quorum, the Mayor shall be counted as a member of the Council.

418 3.10.2 - The Mayor shall be authorized to act on behalf of the town, without prior council approval, in the
419 event of some sudden emergency requiring prompt action in order to protect the public health, safety, and welfare of
420 the town, its residents, and property owners. A 'sudden emergency' for purposes of this Section shall include, by way
421 of example and not in limitation, a major fire or conflagration, significant flooding, or serious storm threatening
422 significant damage, a civil disturbance, or a toxic spill. A 'sudden emergency' shall also include any emergency
423 situation as declared by any County, State, or Federal agency having jurisdiction over the town where the scope of the
424 emergency so declared includes the Town of Clayton. If reasonably possible, the Mayor shall notify each
425 Councilmember, in writing, of the action so taken within 48 hours. Notice shall be complete upon depositing such
426 notice in the U.S. Mail, proper postage affixed, to each council member at their last known address, by personal
427 delivery, or by sending an e-mail transmission. Any action taken by the Mayor under the powers vested in them under
428 this Section shall be as good as the act of the entire Council, provided that the council may at a regular or special
429 meeting held within fifteen (15) days of the Mayor's action, cancel the further implementation of any such action not
430 yet completed and notify any persons or legal entities affected.

431 3.10.3 - The Mayor shall be authorized to appoint committees and a chairperson for each, provided that the
432 appointees are either a member of the Council or a qualified voter in the Town – with the exception of the Appeals
433 Board and Public Safety Committees. The Mayor, if necessary, may also appoint a Vice Chairperson. The Mayor shall
434 submit a list of all their appointments in writing to the Council and shall indicate the individual they have designated to

435 be the Chairperson and Vice Chairperson – if applicable. The Mayor, with the advice and consent of the Council by
436 majority vote, may remove committee members and/or a Chairperson or Vice Chairperson with sufficient cause.

437 3.11 - Council Vice-President

438 ~~(a) The Vice President shall also be known as the Vice Mayor of the Town of Clayton. If the President shall be~~
439 ~~incapacitated from acting by reason of absence, or for any other cause whatsoever, then all powers and duties conferred and~~
440 ~~imposed upon him by this Charter or any other law, or any resolution or ordinance now or hereafter adopted or enacted by~~
441 ~~the Town Council, shall be exercised and performed by the Vice President as acting President and Mayor for the period of~~
442 ~~such incapacity.~~

443 ~~(b) The Vice President shall have the same right as other officers and Council members to vote on all matters.~~

444 3.11.1 - The Vice-President shall also be known as the Vice Mayor of the Town of Clayton. The Vice Mayor
445 shall act as Mayor during the absence or disability of the Mayor, and while so acting, shall be vested with all the
446 powers, duties, and authority of the Mayor. The Vice Mayor shall perform such other duties as may be assigned to him
447 by the Mayor, ordinance, or resolution adopted by the Town Council.

448 3.11.2 - The Vice President shall have the same right as other officers and Council members to vote and make
449 motions on all matters.

450 3.12 - Council Secretary

451 ~~The Secretary shall record all the proceedings of Council and keep a correct record of the same in a book to be~~
452 ~~provided for the purpose and shall file and keep in a safe place the Seal of the Town and all papers and documents relative~~
453 ~~to the affairs of the Town; and deliver the same to his/her successor in office. The Secretary shall attest the Seal of the~~
454 ~~Town when authorized by the Council and shall perform such duties and have such other powers as may be prescribed by~~
455 ~~the Council. All records, books, papers, and documents in the custody of the Secretary shall be always open for the~~
456 ~~inspection of the Council and the public under such regulations as Council may prescribe by resolution or ordinance.~~

457 The Secretary shall have general supervision of the Town's records and documents. The Secretary shall ensure a
458 true and faithful record of the proceedings of the Town Council is kept. During the temporary absence or disability of the
459 Mayor and Vice-Mayor, the Secretary shall act as Mayor and while so acting, shall be vested with all the powers, duties,
460 and authority of the Mayor. The Secretary shall also have such other duties as directed by ordinance or resolution of the
461 Town Council.

462 3.13 - Council Treasurer

463 ~~(a) 3.13.1 - Before entering upon the duties of his/her office he/she their office, they shall be sworn or~~
464 ~~affirmed, by the President of the Town Council, Council or the person performing the duties of President of Council~~

465 Council, for the time being, to perform the duties of ~~his/her~~ their office honestly, faithfully, and diligently. ~~He/she~~ They
466 shall ~~be custodian~~ have general supervision of all funds of the Town of ~~Clayton~~ Clayton, and ~~he/she~~ they shall deposit
467 oversee deposits and expenditures of them ~~daily~~ in banking institutions as designated by the Council. The Treasurer
468 shall be responsible ~~to insure~~ for insuring that all funds of the Town of Clayton are in insured accounts.

469 (b) 3.13.2 - ~~He/she~~ They shall not pay out any money except as authorized by the President and Council; shall
470 ~~keep~~ ensure a true, accurate and detailed account of all monies received and of all monies paid out by ~~him/her;~~ them is kept;
471 shall ~~preserve~~ oversee records for monies paid by ~~him/her;~~ the Town; and ~~his/her~~ and make sure the Town's books and
472 accounts shall at all times be open to inspection by the President or the members of the Town Council; ~~he/she~~ they shall, at
473 each regular meeting of Council submit a report, in writing, of all receipts and disbursements, which shall be entered in the
474 minutes of said meeting. The Treasurer shall be bonded by the Town with sufficient surety to be approved by Council in a
475 penal sum equal to one hundred fifty (150%) percent of the amount most likely to come within ~~his/her~~ their hands
476 conditioned for the faithful discharge of the duties of ~~his/her~~ their office. The bond shall further provide for the payment to
477 ~~his/her~~ their successor in office of all sums of money remaining in ~~his/her~~ their hands upon settlement of ~~him/her;~~ them;
478 accounts, to which said bond and warrant thereto shall be annexed a warrant of attorney for the confession of judgment for
479 said penalty.

480 3.14 - Rules of Procedure

481 The Council shall determine its own rules of procedures and order of business and shall provide for keeping a
482 journal of its proceedings, which journal shall be a public record and open to public inspection. Voting, except on
483 ~~Procedural~~ procedural motions, may be by roll ~~call~~ call, but in any event the ayes and nays shall be recorded in the journal.

484 3.15 - Quorum and Majority Requirements

485 3.15.1 - A majority of the members elected to the Council shall constitute a quorum to do ~~business~~ business,
486 but a smaller number may adjourn from time to time and may compel the attendance of absent members in such
487 manner and under such penalties as may be prescribed by ordinance. No ordinance shall be valid unless it shall have
488 the affirmative vote of a majority of the members elected to the Council. Resolutions, ~~orders~~ orders, and motions shall
489 be valid upon the affirmative vote of a majority of the members of the Council present. No member shall be excused
490 from voting on ordinances, resolutions, ~~orders~~ orders, or motions, except where a member of Council has a conflict of
491 interest, in which event, said member shall disqualify himself from voting. The member involved shall be the sole
492 judge of whether or not there is such a conflict of interest.

493 3.15.2 - Participation and Voting by Remote Access:

494 The Town Council is hereby authorized, by duly enacted ordinance, to provide that whenever unavoidable
495 circumstances prevent the Mayor or any member of the Town Council from being physically present at any meeting of
496 the Town Council, such person(s) may participate in the meeting, including the making or seconding of any motion and
497 the casting of a vote on any motion, by remote electronic access (e.g. speaker telephone, videoconferencing
498 equipment), provided that all persons participating in the meeting can hear and speak to the other person(s) through
499 remote access and provided that the person participating by remote access can hear and speak to all persons
500 participating at the meeting.

501 3.15 3.16 - Election

502 An annual election shall occur each year to be held on the last Tuesday in April in the Town of Clayton for the
503 election of Council members. The hours for balloting shall be ~~between the hours of 2:00 p.m. until 7:00 p.m.~~ set by the
504 Council in conformance with Delaware law as it currently stands or is hereafter amended to be held in such places place(s)
505 as the Council of the Town of Clayton deem appropriate.

506 3.17 – Succession of Authority

507 In the event that the Mayor is incapable of assuming their responsibilities, the powers therein vested in the Mayor
508 shall transfer to the following officers and officials of the Town in the following order of sequence: (1) Vice-Mayor, (2)
509 Secretary, (3) each of the two remaining Council-members in order of their total number of years served on Council, (4) the
510 Town Manager, (5) the Chief of Police.

511 Article IV: Powers Of Council

512 4.1 - General Powers

513 ~~(a) The Council shall constitute the legislative body of the Town of Clayton and together shall be designated as the~~
514 ~~Town Council.~~

515 (a) Governing Body.

516 The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise
517 provided herein, shall be vested in, and exercised by, a Town Council composed of five (5) Council members to be chosen
518 as hereinafter provided. Unless the context is clearly to the contrary, the term "Council" or "Town Council" herein shall
519 mean the Mayor and Council members.

520 (b) The Council shall have the power to adopt ordinances relating to the health of the population of the Town,
521 Town or to prevent the introduction or spread of infectious or contagious diseases or nuisances affecting the Town, which
522 power shall extend to the area inside the Town limits and within one (1) mile from said limits. The Council may also pass
523 ordinances to ascertain and fix boundaries of streets, squares, ~~lanes~~ lanes, and alleys, or repair and amend the same, and

524 provide for the paving thereof, or to close, alter, extend, or widen ~~anystreet,~~ any street, square, ~~lane.~~ lane, or alley, or open
525 and lay out new ones subject to the provisions in that behalf hereinafter contained; to regulate the ascent and descent of all
526 streets, ~~lanes~~ lanes, and alleys; to fix the building lines upon the same; to direct the paving of footways and to prescribe the
527 width thereof; to direct the laying out of gutters and to prescribe the depth thereof; to prescribe the extent of steps, porches,
528 cellar doors, and other inlets to yards and buildings.

529 ~~(e) The Council shall have power to provide police protection and the lighting of streets at the expense of the~~
530 ~~Town, and generally to prescribe and regulate the use of the streets, lanes, and alleys of the Town and to have and exercise~~
531 ~~control over the same; subject to the provisions in that behalf hereinafter contained, and to the general supervision, and~~
532 ~~control of the Delaware General Assembly.~~

533 ~~(d) The Council shall have power to provide for the regulation of auctions and auctioneers, also to regulate public~~
534 ~~amusements, to fix and declare and regulate the width of party walls, to provide for the safety of the citizens and for that~~
535 ~~purpose may prescribe the heights, thickness of walls and materials of buildings and the mode of erecting the same within~~
536 ~~said Town; and for providing for and securing the safety of the occupants thereof, and make provisions for the enforcement~~
537 ~~of such regulations.~~

538 ~~(e) The Council may regulate by ordinance or otherwise the sale of goods, wares and merchandise on the streets~~
539 ~~and sidewalks within the Town of Clayton, and fix the license fee thereof and the penalty for not paying said fee or the~~
540 ~~breach of any other provisions of such ordinance or regulation and in all other respects regulate the markets within the said~~
541 ~~Town of Clayton. The Council shall have the power to provide for the measuring or weighing of coal, lime, grain, oil,~~
542 ~~electricity or other matter sold in the said Town and to regulate the storage of gunpowder or any other dangerous substance.~~

543 ~~(f) They shall have power to lay and collect fines on the owners of any horse, cow, dog, or other animal which~~
544 ~~may be found at large in any of the streets, squares, lanes or alleys aforesaid, and in general shall have power to do all those~~
545 ~~matters and things for the well-being of the said Town, which shall not be in contravention of any existing laws of this State~~
546 ~~or the Constitution thereof.~~

547 ~~(g) The Council shall have power to require all persons owning or keeping any male or female dog or dogs within~~
548 ~~the limits of the said Town to have the same registered annually and collect a fee from such keeper, owner or owners for~~
549 ~~such registration, and shall have power to fix the time and manner of registering, the amount of the annual fee thereof, and~~
550 ~~the penalty for not registering by ordinance.~~

551 ~~(h) (c)~~ The said Council shall have power, also by ordinance, to appoint a Town surveyor to make a plot or map,
552 showing the ascent and descent of all streets, ~~lanes~~ lanes, and alleys, the building lines upon the same, and generally to do

553 and perform all such matters and things as they may deem necessary for carrying into effect the provisions in this Section
554 contained.

555 ~~(i) The Council shall have power, by ordinance or regulation, to trim or remove or cause the owners thereof to trim
556 or remove any and all trees, bushes, shrubbery, weeds or other vegetation, garbage, debris, or other offensive products
557 wherever situated in the said Town, which Council shall deem to constitute a public nuisance or menace to the public
558 welfare, safety or traffic.~~

559 ~~(j) The Council shall have the power to invest in securities of the United States, and/or in insured savings accounts,
560 funds of the Town not required for immediate use by the Town.~~

561 ~~(k) The Council shall not have power to exempt any individual from the operation of any general ordinance or
562 municipal regulation, except that Council shall have the power to exempt property under any Planning and Zoning
563 Ordinance.~~

564 ~~(d) The Council shall have the power to invest in funds of the Town, not required for immediate use by the Town,
565 in securities of the United States and/or in insured savings accounts.~~

566 ~~(4) (e) The Council shall have all other powers requisite to and appropriate for the government of the Town of
567 Clayton; its peace and order, its sanitation and beauty, and for the health, safety, convenience, comfort and well-being of its
568 population, and for the protection and preservation of public and private property. Nothing in this Charter shall be
569 construed as exempting any individual or agency from the operation of this section.~~

570 4.2 – Special Provisions

571 In addition to the General Powers of Council, Council shall have the following specific powers:

572 ~~(a) May hold and acquire by gift, negotiation and purchase, devise or lease, property, both real (improved or
573 unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee or lesser estate or interest,
574 necessary or desirable for any municipal or public purpose, including but not limited to, providing sites for constructing,
575 improving, extending, altering, or demolishing:~~

576 ~~(1) public buildings;~~

577 ~~(2) parks;~~

578 ~~(3) streets, squares, lanes, alleys and sidewalks; and~~

579 ~~(4) recreational facilities for the proper furnishing of adequate municipal services to the citizens of the Town.~~

580 ~~(b) May sell, grant, alien, lease, mortgage, manage, hold and control such property as the interests of the Town
581 may require except as prohibited by the Constitution of the State of Delaware, or as restricted by this Charter.~~

582 (e) ~~May pay for the acquisition, construction, improvement, extension, alteration, or demolition of any municipal~~
583 ~~or public property, real, personal, or mixed, from the general funds of the Town and/or from the proceeds of any grant or~~
584 ~~loan made to the Town by any agency of the United States or of the State of Delaware, where the Town is lawfully~~
585 ~~empowered to obtain such grant or loan and where the proceeds of the grant or loan are for purposes lawfully authorized by~~
586 ~~this Charter or by the laws of the State of Delaware.~~

587 (d) ~~May enter into such contracts and agreements as are deemed necessary or in the best interests of the Town,~~
588 ~~provided the purposes of such contracts are otherwise lawful and authorized by this Charter, or the laws of the State of~~
589 ~~Delaware.~~

590 (e) ~~May pass ordinances and rules for the good government and good order of the Town and for all matters~~
591 ~~relating to the general health, safety, morals, peace, and welfare of the Town. By way of example and not in limitation, the~~
592 ~~Town shall have authority to adopt ordinances:~~

- 593 (1) ~~for the lighting and improvement of streets;~~
- 594 (2) ~~for the paving or other improving of sidewalks;~~
- 595 (3) ~~for the planting and protection of ornamental trees;~~
- 596 (4) ~~to define, prevent, and abate nuisances;~~
- 597 (5) ~~to define, investigate, prevent, abate, and remove fire and explosive hazards;~~
- 598 (6) ~~to construct, improve, extend, and maintain water mains, fire hydrants and other proper instruments for the~~
599 ~~prevention and combating of conflagrations;~~
- 600 (7) ~~to regulate and control pedestrian, automobile and animal drawn traffic over the streets, squares, lanes,~~
601 ~~alleys, sidewalks, and other public places in the Town (including the parking and non-parking of vehicles in the Town);~~
602 ~~provided, however, that such ordinances shall not conflict with any laws of the State of Delaware;~~
- 603 (8) ~~to prevent, suppress, and regulate bonfires, the firing of firearms, air or spring guns, and the setting off or~~
604 ~~exploding of firecrackers, fireworks, torpedoes, or any other explosives;~~
- 605 (9) ~~to prevent or regulate the keeping of animals within the Town and to prohibit the running at large of such~~
606 ~~animals;~~
- 607 (10) ~~to prohibit gaming and fraudulent devices;~~
- 608 (11) ~~to regulate all public sports, exhibitions, shows, parades, productions, circuses or other public~~
609 ~~performances, amusements, and games;~~
- 610 (12) ~~to require the removal of ice, snow, dirt or other foreign substances from sidewalks and gutters by owners~~
611 ~~or abutting owners;~~

612 (13) to prevent vice, drunkenness, and immorality;

613 (14) to provide for or regulate the numbering of houses and lots on the streets of the Town and the naming of
614 public streets, alleys, and avenues;

615 (15) to exercise all powers and authorities vested in the Town by virtue of Chapter 3, Title 22 of the Delaware
616 Code regarding the zoning and subdivision of lands as the same may, from time to time hereafter be amended;

617 (16) to define, abate, demolish, and remove dangerous buildings and other dangerous structures in the Town,
618 including the power to condemn and cause to be torn down and removed any such structure which, upon inspection, is
619 determined to be a fire hazard or otherwise be unsafe; provided however, that any such ordinance shall provide
620 procedures for notice and opportunity to be heard and to correct the hazardous condition by the affected property
621 owner and/or lienholders;

622 (17) to regulate solicitors, peddlers, traveling salesmen, hucksters, and hawkers;

623 (18) to license any responsible person, firm, association or corporation for such period of time and upon such
624 terms, restrictions, stipulations, and conditions, and for such considerations as the Town Council shall deem in the best
625 interest of the municipality to use the present and future streets, alleys, squares, parks, sidewalks and other public
626 places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current,
627 telephone, telegraph or television from, through, or into the Town; provided however, that such ordinances shall be
628 subordinate to any appropriate State or Federal statute, and to any appropriate rule or regulation adopted by a State or
629 Federal agency acting pursuant to statute.

630 (f) May make, adopt and establish all such ordinances, regulations, rules, and by laws not contrary to the laws of
631 this State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this
632 Charter or any other laws of the State relating generally to municipal corporations or which they may deem proper and
633 necessary for the order, protection and good government of the Town; the protection and preservation of persons and
634 property; and of the public health, safety, and welfare of the Town and its inhabitants.

635 (g) May provide for the punishment of a violation of any ordinance of the Town by a fine not exceeding One
636 Hundred Dollars (\$100.00).

637 4.3 4.2 - Ordinance Procedure

638 In addition to such acts of Council as are required by this Charter or by other State law to be by ordinance, every
639 act of the Council establishing a fine or other ~~penalty~~ penalties shall be by ordinance. The enacting clause of all ordinances
640 shall be "The Town of Clayton hereby ordains".

641 4.3.1 4.2.1 - Procedure for Enacting Ordinances

642 Every ordinance shall be introduced in writing. No ordinance shall be passed unless it shall have the concurrence
643 of a majority of the members elected to the Council ~~and unless it shall have been read in its entirety at least one time prior~~
644 ~~to the taking of the vote thereon.~~ All ordinances passed after the effective date of this Charter shall be copied into the
645 records of the ~~Council~~ Council, and an index of such ordinances shall be kept by the ~~Secretary~~ Town Manager.

646 ~~4.3.2~~ 4.2.2 - Codes of Technical Regulations

647 The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance.
648 The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally.

649 4.4 4.3 - Power to Raise Revenue

650 (a) The Council shall have the power to levy and collect taxes on real property within the limits of the Town,
651 except that which is not assessable and taxable by virtue of any law of the State of Delaware. The Council shall have the
652 right to grant or refuse, and to charge fees for licenses, or permits for businesses of any description carried on within the
653 limits of the Town as well as for transient businesses and shows except as otherwise provided herein. The Council shall
654 also have the power to levy and collect franchise taxes and to impose sewer rentals ~~and water rentals.~~ 77 Del. Laws, c. 274

655 (b) The Council shall have the ~~power~~ power, by ordinance, to impose reasonable penalties and forfeitures for tax
656 ~~delinquencies,~~ delinquencies and to review and determine proper and appropriate properties to be exempt from taxation,
657 provided, however, that no such exemption shall be in favor of a free enterprise profit making organization unless it shall
658 come within the terms of the exemption for any established firms as hereinbefore provided.

659 (c) The Council shall have the power to fix the rates for general utility services operated by the Town and to
660 collect and utilize revenues from such utility services for the benefit of the Town.

661 (d) Notwithstanding any statute to the contrary, the Town of Clayton shall have the power by ordinance to impose
662 and collect a tax, to be paid by the transferor or transferee as determined by Council, upon the transfer of real property
663 within the Town not to exceed ~~one and one half per cent (1-1/2%)~~ 1.5% of the value of the real property as represented by
664 the document transferring the property. The provisions of Section 5401 and Section 5403 of Chapter 54, Title 30 of the
665 Delaware Code shall apply with respect to any realty transfer tax imposed by the Town of Clayton pursuant to the authority
666 granted herein. The Council of the Town of Clayton may adopt an ordinance or ordinances to provide for the effective
667 administration and regulation of any tax adopted pursuant to the authority conferred herein. If the taxing power and
668 authority granted herein shall be exercised by way of a stamp affixed to a document, the Recorder of Deeds in and for Kent
669 County shall not receive for record documents subject to said tax unless stamps provided by the Town of Clayton are
670 affixed thereto showing payment of the tax.

671 4.5 4.4 - The Town May Engage in Business

672 (a) The Town of Clayton shall have the right to engage in any business or enterprise in which a person, ~~firm~~ firm,
673 or corporation might engage by virtue of a ~~franchise~~, franchise and shall have the right and power to acquire, ~~own~~ own, and
674 ~~maintain~~, maintain within the corporate limits of such Town, all real estate for municipal purposes for site and ~~right-of-~~
675 ~~ways~~ rights-of-way for public utility and general welfare purposes and for the location, ~~erection~~ erection, and maintenance
676 thereon of municipal plants and public facilities.

677 (b) The Town of Clayton shall have the exclusive right to grant franchises within the Town boundaries.

678 (c) In any case where the Council may deem it to be ~~to~~ in the best interests of the people of the Town of Clayton to
679 acquire the properties of any privately owned utility, the Town of Clayton shall respect the franchise rights of the owners
680 and ~~shall~~ shall, in all ~~respects~~ respects, adhere to the general laws of the State of Delaware insofar as they relate to the
681 purpose of utility properties by municipalities.

682 ~~(d) The Town may, in its discretion, distribute water throughout all that territory included within the Town~~
683 ~~boundaries and also any contiguous territory within ten (10) miles of the Town limits. The Council shall determine the~~
684 ~~person or persons, firm or firms, corporation or corporations, to which the Town shall distribute water throughout said~~
685 ~~territory; shall fix the rates therefor, shall regulate the use of said water, and shall supply the same upon such terms and~~
686 ~~conditions as may be agreed upon by the council and said person or persons, firm or firms, corporation or corporations. The~~
687 ~~Town shall have and exercise all the powers and authority necessary to the accomplishment of said distribution of water~~
688 ~~throughout said territory as it now has and possess in the installation, operation and maintenance of its water system in the~~
689 ~~Town and in the distribution by it of water within the Town limits, including the authority and power to acquire by~~
690 ~~purchase or condemnation such land, and real and personal property as hereinafter provided in case of streets.~~

691 4.6 4.5 - Borrowing for Current Expenses

692 (a) 4.5.1 Whenever the needs of the Town shall require more money than is, at the time, in the Town treasury
693 from current receipts, the Council shall be authorized and empowered to anticipate current revenue by borrowing such
694 amounts as are needed. Provided, however, the amount of such indebtedness shall not at any time exceed ~~one and one-~~
695 ~~half (1 1/2%) percent~~ 20% of the assessed valuation of the assessable and taxable real property within the limits of the
696 Town.

697 (b) 4.5.2 To exercise the power ~~aforesaid~~ aforesaid, the Council shall adopt a resolution to that effect, which
698 resolution shall be by roll call and require the affirmative vote of at least three (3) of the members of the Council. The
699 indebtedness created under this provision shall be evidenced by notes of the Town, and the full faith and credit of the
700 Town shall be deemed to be pledged thereby. Such ~~short-term~~ short-term debt shall not be considered as part of the
701 bonded debt of the Town when limitations under indebtedness, as set forth elsewhere in this Charter, are computed. No

702 officer nor Councilmember shall be personally liable for the payment of such notes because it is signed by them as
703 officers of The Town of Clayton, and is authorized by a resolution of the Town Council.

704 4.7 4.6 - Power to Incur Bonded Indebtedness

705 ~~4.7.1~~ 4.6.1 - Power to Borrow Money

706 The Town shall have the power to borrow upon the full faith and credit of said Town, for municipal purposes
707 of any character whatsoever, by issuing either general obligation bonds or certificates of indebtedness secured by the
708 full faith and credit of the ~~Town~~, Town or by issuing revenue bonds, either in whole ~~of~~ or in part of the total amount
709 necessary to the proper execution of any function or power of the Town.

710 If general obligation bonds are issued, the total outstanding debt secured by such bonds shall not exceed ~~ten~~
711 ~~(10) per centum~~ 20% of the assessed value of all the real estate subject to taxation located within the Town.

712 If revenue bonds are issued, each such bond shall recite in substance that said bond, including interest thereon,
713 is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the Town
714 of Clayton within the meaning of the bonded indebtedness limitation; provided however, that in the event of some
715 emergency, the Town of Clayton may temporarily borrow, advance or loan such amount as is necessary to meet current
716 interest on outstanding bonds, such advance or loan to be repaid to the Town of Clayton out of revenue subsequently
717 received from the undertaking. If revenue bonds are issued the Council shall prescribe and collect reasonable rates, fees
718 or charges for service, facilities and accommodations of said undertaking and shall revise such rates, fees or charges
719 from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates,
720 fees or charges prescribed shall be such as will procure revenue at least sufficient to (a) ~~to~~ pay when due all bonds and
721 interest thereon, for the payment of which such revenue is or shall have been pledged, ~~charged~~ charged, or otherwise
722 encumbered, including reserves ~~therefor, and therefor~~. (b) ~~to~~ provide for all expenses of operation and maintenance of
723 such undertaking, including reserves therefor.

724 ~~4.7.2~~ 4.6.2 - Method of Borrowing Money

725 Before the Town of Clayton may incur indebtedness by the issuance of general obligation bonds as aforesaid,
726 the borrowing of money shall have been authorized by the Council and shall have been approved in the following
727 manner:

728 1. The Council ~~shall~~ shall, by ~~resolution~~ resolution, propose to the qualified voters of the Town of
729 Clayton the purpose or purposes for which the stated amount of money shall be borrowed. The resolution shall
730 state the amount of money desired to be borrowed, the purpose of which it is desired, the manner of securing the
731 same, and all other pertinent facts relating to the loan, including data on total related debt and the debt limitations

732 established by this Charter, shall fix a time and place for hearing on the resolution; and shall provide for the
733 publication of an announcement of the hearing in a newspaper of general circulation in Kent County at least one
734 week prior to the hearing date.

735 2. A public hearing shall be ~~held~~ held, at which time all interested persons wishing to be heard shall be
736 given an opportunity to express their views. Their testimony shall be considered in evidence by the Council.

737 3. If the Council desires to continue with the bond proceedings, it shall then, by resolution, direct that the
738 question be submitted to a referendum. An election shall be held not less than thirty (30) days nor more than sixty
739 (60) days after the date of such resolution.

740 4. The notice of the time and place for holding the said special election shall be printed in a newspaper of
741 general circulation in Kent County once a week for three (3) successive weeks prior to the election. The special
742 election shall be conducted by the election officers as herein provided for annual elections.

743 5. The Council shall cause the election officers to prepare, print and have available for distribution a
744 sufficient number of ballots not less than five (5) days prior to the date of the special election. At said referendum,
745 all qualified voters of the Town of Clayton shall be entitled to one vote.

746 6. The election officers shall count the votes for and against the proposed loan and shall announce the
747 result thereof; shall make a certificate under their hands of the number of votes cast for and against the proposed
748 loan; and shall deliver the same to the ~~Council~~ Council, which certificates shall be entered on the minutes of the
749 Council and the original shall be filed with the papers of the Council. Provided, however, no bond issues shall be
750 deemed approved unless a majority of those voting at such referendum shall vote for such bond issue.

751 7. The form of the bonds and certificates of indebtedness, the date of payment of interest, the classes, the
752 dates of maturity, and the provisions pertaining to the registration shall be determined by the Council. The bonds
753 shall be sold to the highest bidder after at least one month's notice and published at least twice in a newspaper of
754 general circulation in Kent County and at least once in a publication carrying municipal bond notices and devoted
755 primarily to financial news. The Council shall provide, in its budget, for revenues sufficient to pay the interest and
756 principal on the said bonds or certificates of indebtedness at the maturity or maturities therefor. The full faith and
757 credit of the Town of Clayton shall be deemed pledged for the due payment of the principal and interest of general
758 obligation bonds issued within the prescribed debt limitation when the same have been properly executed and
759 delivered for value.

760 4.8 4.7 - Power of Council Over Streets

761 (a) Upon the majority vote of its members, the Council shall have the power to locate, lay out, and open any new
762 street, ~~lane~~ lane, or alley or widen any street, ~~lane~~ lane, or alley heretofore laid out in said Town or reopen any old street,
763 lane, or alley now closed.

764 (b) The persons respectively, through and over whose lands such street, ~~lane~~ lane, or alley may pass, shall receive
765 compensation as Council shall deem just and reasonable under all circumstances. Said compensation, if any be allowed,
766 shall be paid by the Treasurer of the Town out of the monies of said Town upon warrants drawn upon him/her by order of
767 Council.

768 (c) Whenever the Town Council shall have determined to locate and lay out or widen any street, ~~lane~~ lane, or alley
769 and shall have fixed the compensation therefor, it shall be its duty immediately after the survey and location of the said
770 street, ~~lane~~ lane, or alley, to notify in writing, the owner or owners of the real estate through or over which said street, ~~lane~~
771 lane, or alley may run, of its determination to open or widen the same, and to furnish a general description of the location
772 thereof, and also the amount of the damages or compensation allowed to each.

773 (d) Any owner who may be dissatisfied with the amount of compensation or damages allowed by the Town
774 Council, as aforesaid, may, within ten (10) days after such notice, appeal by serving a written notice to that effect on the
775 President of the Council or to the person performing the duties of President of Council for the time being. In order to
776 prosecute said appeal, such appellants ~~shall~~ shall, within fifteen (15) days after the expiration of the ten (10) days allowed
777 for appeals, make a written application to the Associate Judge to the Superior Court of this State, resident of Kent County,
778 for the appointment of a commission to hear and determine the matter of damages or compensation.

779 (e) Thereupon the said Associate Judge shall issue a commission under ~~his/her~~ their hand directed to five (5)
780 qualified voters of the said county, three (3) of whom shall be residents of said Town of Clayton and two (2) of whom shall
781 be non-residents of said Town. The individuals named in such commission, being first sworn or affirmed on the day and at
782 the hour and place stated in the notice shall view the premises and hear the witnesses, and ~~shall~~ shall, without delay,
783 determine and fix the damages, if any, which said appellant will sustain by reason of being deprived of any property as
784 aforesaid. Thereupon the said members of the commission shall make a return in writing of their proceedings to the said
785 Resident Judge, who shall cause a copy of said return to be delivered to the President, and such return shall be final and
786 conclusive. The said Judge shall have the power to fill any vacancies among the members named in such commission. On
787 application within twenty (20) days after the ~~award~~ award, the said Judge may set aside a grossly improper award and
788 appoint a new commission. The amount of damages being ascertained, the Town may pay or tender the same to the person
789 entitled thereto within one (1) month after the same shall be finally ~~ascertained~~, ascertained or may deposit the same in any

790 bank in the Town to the credit of the person entitled thereto, within the said period of one (1) month, and thereupon the
791 Town may carry into effect the plan contemplated in the resolution aforesaid.

792 (f) After the damages shall be fixed and ascertained by the members of the commission as aforesaid, the Town
793 Council shall have the option to pay damages ~~assessed~~, assessed within the time ~~aforesaid~~, aforesaid and proceed with the
794 said improvements, or, upon the payment of the costs only, may abandon the proposed improvements.

795 (g) In the ascertainment and assessment of damages by the members of the commission, if the damages shall be
796 increased, the costs of the appeal shall be paid by the Treasurer of the Town of Clayton, but if said damages shall not be
797 increased, the said costs shall be paid by the appellant. The fees to the members of the commission shall be set by ordinance
798 and shall be taxed as a part of the costs.

799 ~~4.9~~ 4.8 - Sidewalks and Gutters

800 (a) 4.8.1 - Whenever the Town of Clayton shall have determined that any paving, guttering, or graveling of
801 the sidewalks or any or either or all of them, shall be ~~done~~ done, it shall notify the owner or owners of land in front of
802 whose premises the same is to be done, particularly designating the nature and character thereof, and thereupon it shall
803 be the duty of said owner or owners, to cause such paving, graveling or guttering to be done in conformity with said
804 notice.

805 (b) 4.8.2 - In the event of any owner neglecting to comply with said notice for the space of thirty (30) days,
806 the Council may proceed to have the same done, and when ~~done~~ done, the ~~Treasurer~~ Town Manager of the Town of
807 Clayton shall may as soon as convenient thereafter present to the said owner or owners of such lands, a bill showing
808 the expense of paving, graveling or guttering. If such owner or owners be not resident in the Town of Clayton, such bill
809 may be presented to the occupier or tenant of said land or if there be no occupier or tenant resident in the Town of
810 Clayton, such bill may be sent by mail to such owner or owners, directed to ~~him/her~~ him/her or them at the post office nearest
811 ~~his/her~~ them or their residence. If such bill be not paid by the owner or owners of such lands within thirty (30) days
812 after the presentation, then it shall be the duty of the Council to issue an order in the name of "The Town of Clayton",
813 under the hand of the President, and the seal of the said corporation, directed to the Treasurer of the Town of Clayton,
814 commanding him/her to proceed to collect said delinquent assessment.

815 (c) 4.8.3 - The claim for paving, ~~graveling~~ graveling, or guttering shall be a lien on the premises in front of
816 which the said work was ~~done~~, done and shall have the same priority and be collectible in the same manner as
817 municipal property taxes.

818 (d) 4.8.4 - Any notice required by this section to one ~~co-owner~~, co-owner shall be notice to all; and in case no
819 co-owner shall reside in the Town, notice may be served upon the occupier or tenant of said premises resident in the

820 Town, and if there be no such occupier or tenant, it shall be sufficient to send said notice by mail to any owner of said
821 premises, directed to him/her or them at the post office nearest ~~his/her~~ them or their residence.

822 4.8.5 - The provisions hereinbefore contained in this ~~section~~, section shall apply to any order made by the
823 Council in respect to any such paving, graveling, or guttering heretofore done, which the Council may deem
824 insufficient or to need repairing. The ~~Council~~ Council, in addition to the provisions of this ~~section~~ section, hereinbefore
825 shall have power and authority to enforce by ~~ordinance~~, ordinance all the requirements of this section by imposing such
826 fines and penalties as shall be in the judgment of the Council necessary and proper.

827 ~~(e)~~ 4.8.6 - The paving and guttering outside of said curbing shall be done by the Council at the expense of the
828 Town, except in case of property exempt from taxation, in which case the owner and owners of said exempt property
829 shall pay for the paving and guttering outside of said curbing, and in the case said owners refuse so to pave and gutter,
830 the Council may proceed to have the same done and collect the expense thereof in the same manner and by the same
831 proceedings as are hereinbefore provided, in case of paving, graveling and guttering sidewalks, footways, etc., where
832 the owners of property refuse to pave, gravel and gutter sidewalks and footways in front of their property.

833 ~~4.10~~ 4.9 - Sewer and ~~Water~~ Stormwater Improvements

834 (a) The Town shall have exclusive jurisdiction and control within the Town of Clayton of the drainage ~~thereof~~,
835 thereof and the right to alter and change the course and direction of any of the natural watercourses, ~~runs~~ runs, or rivulets
836 within the ~~Town, and~~ Town and may pass ordinances for the construction of ~~water mains~~, storm drains and sanitary sewers
837 within the Town. The Town also shall have the power and authority to regulate, maintain, ~~cleanse~~ cleanse, and operate such
838 ~~water mains~~, storm drains and sanitary sewers and the natural watercourses, ~~runs~~ runs, and rivulets within the Town open,
839 ~~clear~~ clear, and obstructed, and for that ~~purpose~~ purpose, may authorize the entry upon private lands and take, condemn and
840 occupy the same and by regulation prescribe the mode in which they shall be altered, changed, opened, maintained,
841 cleansed, closed and kept open and unobstructed, and shall bear the expenses thereof and may, in its discretion, assess the
842 costs of sanitary sewers, ~~water lines~~, and storm drains upon the property particularly benefited thereby, except such real
843 estate as is exempt from municipal assessment taxation by virtue of any law of the State of Delaware, and prescribe the
844 mode of collection thereof; provided, however, that nothing herein contained shall be constructed to authorize the taking of
845 private property for public use without just compensation.

846 (b) The Council may, by condemnation proceedings, take private ~~land~~, land or the right to use private land, under,
847 ~~over~~ over, or on the surface thereof, for the proper operation or extension of the ~~water and/or~~ sewer systems. The method of
848 procedure by condemnation under this section shall be the same as provided for in Section 4.7 of this Act for the opening
849 and laying out of new streets.

850 (c) The Town likewise is authorized to make agreements with Kent County or other municipalities to permit
851 interconnection of the Town and County sewer systems. The Council shall have the right to compel the owner of any
852 building or structure requiring sewage disposal facilities to connect to any sewer main that is available.

853 (d) Whenever the Council shall determine that construction, improvement, ~~alteration~~ alteration, or repair of
854 sanitary sewers is required, it shall be empowered and authorized to direct any necessary survey and other work be
855 undertaken and any costs be determined. Necessary construction, improvement, alteration or repair work may be done by
856 contract or by Town forces.

857 4.11 Investigations

858 ~~The Town shall have the power to borrow upon the full faith and credit of said Town, for municipal purposes of~~
859 ~~any character whatsoever, by issuing either general obligation bonds or certificates of indebtedness secured by the full faith~~
860 ~~and credit of the Town, or by issuing revenue bonds, either in whole or in part of the total amount necessary to the proper~~
861 ~~execution of any function or power of the Town.~~

862 Article V: Police

863 5.1 - Police Force

864 (a) 5.1.1 - Council may appoint a police force consisting of a chief and such number of subordinates as the Council
865 may deem ~~appropriate~~; appropriate, and the Council ~~shall~~ shall, from time to ~~time~~ time, make rules and regulations as may
866 be necessary for the organization, ~~government~~ government, and control of the ~~Police Force~~; police force. The members of
867 the force shall be subject to the general directions of the ~~Council~~, and Mayor and Council and may be removed by the
868 Council. They shall preserve peace and order, and shall compel obedience, within the Town limits and within one mile of
869 the limits of the town, of the ordinances of the Town and the laws of the ~~State~~; and State. Members of the police force shall
870 have the power to issue summons, to arrest pursuant applicable law, and they shall have such other duties as the Council
871 shall from time to time prescribe.

872 (b) 5.1.2 - Each member of the Police Force shall be vested, within the Town limits and within one (1) mile
873 outside of said ~~limits~~ limits, with all the powers and authority of a ~~constable of Kent County~~; state peace officer and may
874 carry firearms, and in case of pursuit of an offender, their power and authority shall extend to any part of the State of
875 Delaware.

876 (c) 5.1.3 - Council may delegate its power to direct, hire, or remove police officers to the acting Police Chief by
877 Ordinance or Resolution.

878 Article VI: ~~New Developments And Subdivisions~~ Subdivision and Land Development

879 6.1 - General Provision

880 (a) Whenever it is contemplated that a new real estate development shall be undertaken, the Council shall require
881 the developer to submit plans and supporting documents to the Council for approval prior to the actual construction and/or
882 installation of improvements and utilities.

883 (b) Whenever the installation of new facilities is contemplated in a partially developed area, the Council shall
884 make a careful determination of the ability of the area to support the cost of the projected improvement before approving it.
885 Also, the developer shall provide evidence to the Council that ~~he/she has~~ they have complied with all State and County
886 regulations.

887 6.2 - Power to Regulate

888 In order to provide for the orderly growth and development of the Town, to promote the health, safety, prosperity,
889 and general welfare of the present and future inhabitants of the Town, to ensure the conservation of property values and
890 natural resources, including the protection of the Town's open lands, water resources, and recreational potential, and to
891 afford adequate provision for public utilities, drainage, sanitation, vehicular access, educational and recreational facilities,
892 parkland and open space, among other and related activities, the Town may regulate the subdivision and development of all
893 land in the Town. Such regulation may, through ordinance, include:

894 (a) Varying procedures for ensuring the processing of combining, partitioning, or land subdivision and site plans
895 within a reasonable period of time relative to the number of lots or parcels and the extent of improvements required.

896 (b) Procedures for ensuring that the arrangement of the lots or parcels of land or improvements thereon shall
897 conform to the existing zoning at the time of recordation and that streets, or rights-of-way, bordering or within subdivided
898 or developed land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate
899 prospective traffic, that adequate easements or rights-of-way shall be provided for drainage and utilities, that reservations of
900 areas designed for their use as public grounds shall be of suitable size and location for their designated uses, that sufficient
901 and suitable monuments and signage shall be required, that land which might constitute a menace to safety, health or
902 general welfare shall be made safe for the purpose for which it is subdivided or developed, and that adequate provision for
903 public utilities (e.g. fire protection, sanitary sewage collection, electric distribution, telephone, and cable) is made.

904 (c) Procedures for encouraging and promoting flexibility and ingenuity in the layout and design of subdivisions
905 and land development and for encouraging practices that are in accordance with contemporary and evolving principles of
906 site planning and development.

907 (d) Procedures for ensuring that any improvements to be constructed on such lands are in compliance with all
908 appropriate Town ordinances and that the placement and location of such improvements will not have a significant negative
909 impact on adjoining properties.

910 (e) Procedures for securing financial guarantees from the developers of such lands to ensure satisfactory
911 completion of all such required improvements, which may include extending the term of such guarantee for a reasonable
912 period of time (not exceeding three years) beyond the actual completion of such improvements by the developer or
913 acceptance of such improvements by the Town.

914 6.3 - Recording Unapproved Plans.

915 In the event an ordinance of the Town so provides, no plat, plot, or plan of land shall be received for filing or
916 recording by the Recorder of Deeds in and for Kent County unless and until such plat, plot, or plan shall have been
917 approved by the Town body so authorized to grant such approvals, and the fact of such approvals shall have been endorsed
918 in writing on such plan. Any plat, plot, or plan recorded in violation of such ordinance shall be void and of no legal force or
919 effect.

920 Article VII: Property And Special Assessments

921 7.1 - Property Assessment Procedure

922 (a) It shall be the duty of the assessor of said Town, annually, to make a true, ~~just~~ just, and impartial valuation and
923 assessment of all real estate within the Town except such real estate as it exempts from municipal assessment and taxation
924 by virtue of any state law or provisions of this Charter, and also of such personal property as is subject to county
925 assessment and taxation.

926 (b) It shall be lawful for the Town to enter into an agreement with the Board of Assessments for Kent County to
927 inspect and ~~copy~~, copy or obtain ~~copies~~, copies of the assessments made for county purposes. Annually, the Council shall
928 make a judgment regarding whether the Town will utilize such county assessments and whether said county assessments
929 are a true, ~~just~~ just, and impartial evaluation. The Council then shall order the adoption of such county assessment for
930 municipal purposes or the adoption of assessments as determined by the assessor; provided, however, that adoption of the
931 county assessment for municipal purposes shall not preclude the Town from modifying the county assessment list to take
932 into account new construction or changes in ownership or use not reflected in the county assessment list, or clear cases of
933 inequitable assessment.

934 (c) Each year, there shall be prepared and submitted to Council, at least sixty (60) days before the beginning of the
935 tax year, two (2) or more copies of the assessment roll, which shall show the location of each parcel of taxable real and
936 personal property by street and number or other suitable description. When the Council approves the roll as ~~prepared~~,
937 prepared or as modified by the Council, then a full and complete transcript thereof shall be posted in a place in the Town
938 designated by the Council. Such posting shall take place at least forty-five (45) days before the beginning of the tax year
939 and shall remain posted up to, but not including, the appeal day as herein set out. Notice of the time and place ~~where~~, where

940 the assessment listed may be viewed, and the time and place of hearing appeals shall be advertised in a newspaper of
941 general circulation in the Town, and notice shall be given by posting such announcement in at least five (5) public places
942 throughout the Town.

943 7.2 Alternative Method for Property Tax Assessment

944 The Council may adopt the assessment of Kent County for any or all property located within the corporate limits
945 of The Town of Clayton in lieu of making its own independent assessment and valuation, anything herein notwithstanding.
946 In such event, the assessed values established by Kent County shall be conclusive for the purposes of levying town taxes,
947 and the Town Council shall have no authority to hear appeals regarding the same. If the Town Council elects to adopt the
948 Kent County Assessments, only this Section shall have effect; but the Town Council will have the authority to consider
949 appeals concerning any additions to tax bills under the provisions of this charter at any regular meeting.

950 7.2 7.3 - Collection of Taxes

951 ~~(a) A list containing the names of the taxables and, opposite the name of each, the amount of his/her real and~~
952 ~~personal property assessment, and the total amount of the tax, shall be prepared as soon as practical after the beginning of~~
953 ~~the tax year. All taxes shall be paid to the Town Treasurer, subject to such penalties and rules as the Council may direct. 77~~
954 ~~Del. Laws, c. 274~~

955 ~~(b) It shall be the duty of the Town Treasurer to proceed forthwith to collect all taxes in the calendar year in which~~
956 ~~assessed. In the collection of said taxes, he/she shall have all powers conferred upon or vested in the Receiver of Taxes and~~
957 ~~the County Treasurer for Kent County.~~

958 ~~(c) The provisions of Section 2901 through 2905, inclusive, of Title 25 of the Annotated Code of Delaware, as~~
959 ~~amended, with reference to tax liens, shall be deemed and held to apply to all taxes laid and imposed under the provisions~~
960 ~~of this Charter, except that any such lien for taxes imposed shall continue for ten (10) years from the date such lien~~
961 ~~commences.~~

962 7.3.1 - Town Manager to Serve as Town Tax Collector:

963 The Town Manager is and shall be the Town Tax Collector.

964 7.3.2 - Town Manager to have all powers conferred upon Receiver of Taxes of Kent County:

965 In the collection of delinquent taxes (including any and all charges, costs, or other assessments owed to the
966 town and added to the assessment list), the Town Manager shall have all of the same powers, remedies, and authority
967 as conferred upon the Receiver of Taxes of Kent County under 9 Del. C. Chapter 87, as the same may from time to
968 time hereafter be amended, or in accordance with any future corresponding provision of law.

969 7.3.3 - All taxes laid or imposed by the Town of Clayton shall be and constitute a lien upon all the real estate
970 of the taxable against or upon whom such taxes are laid or imposed of which such taxable was seized at any time after
971 such taxes shall have been levied and imposed, situate in the Town of Clayton, and such lien shall have preference and
972 priority over all other liens of record on such real estate created or suffered by the said taxable, although such other lien
973 or liens be of a date prior to the time of the attaching of the Town lien for taxes; provided, however, that the lien for
974 Town taxes shall remain a lien for the period of ten years from the date such taxes were levied and imposed.

975 7.3.4 - Notice Prior to Exercise:

976 Before instituting any legal action for the collection of taxes, written notice of the amount due shall be sent to
977 the owner of the property at their last known address, informing them the town will begin taking legal action.

978 ~~7.3~~ 7.4 - Levying of Special Assessments

979 (a) 7.4.1 The Town of Clayton is hereby authorized and empowered to levy and collect special assessments
980 upon property in a limited and determinable area for special benefits accruing to such property as a consequence of any
981 municipal public work or improvement; and to provide for the payment of all or any part of the cost of the work,
982 service, or improvement out of the proceeds of such special assessments.

983 ~~7.3.1~~ 7.4.2 - Assessments Payable in Installment

984 The Council may provide for the payment of special assessments, for whatever purpose levied, by
985 installments, but assessments for permanent improvements shall be within ten (10) years in annual or more frequent
986 installments, and assessments for current services shall be payable within one (1) year.

987 ~~7.3.2~~ 7.4.3 - Assessments Not to Exceed Value of Benefit

988 The amount assessed against any property for any work or improvement shall not exceed the value of the
989 benefits accruing to the property therefrom.

990 ~~7.4~~ 7.5 Impact Fees.

991 (a) In connection with development plans, the President and Council shall have the authority to impose upon new
992 development or construction, upon the first-time occupancy of new construction, or upon annexed property such 'Impact
993 fees' as are reasonably calculated to cover the proportionate cost of installing, enlarging, improving or expanding public or
994 municipal improvements, including by way of example but not limited to sewer, water, electric, gas, roads, parking, police,
995 and parks; and/or to contribute to the cost of operations of those volunteer fire companies, schools, and/or
996 ambulance/paramedic companies, and other institutions that the Council shall designate providing services to
997 the Town.

998 (b) The Council shall, by ordinance, govern the collection and disbursements of impact fees and the purposes for
999 which such fees can be used.

1000 Article VIII: Council Appointments

1001 8.1 - Assessor

1002 At the regular meeting of Council on the second Monday in May in each year, there may be appointed an
1003 Assessor, who shall be a citizen of the Town of Clayton, but no person then serving as a member of Council shall be
1004 eligible to the Office of Assessor during the term of ~~his/her~~ their office as a member of Council. The Assessor shall receive
1005 such reasonable compensation for ~~his/her~~ their services as shall be determined by the Town Council.

1006 8.2 - Police Chief

1007 8.2.1 The Town Council shall appoint a duly qualified Chief of Police who shall be the chief law enforcement
1008 officer of the Town and the Chief Administrative Officer of the Town Police Department. The Chief of Police shall be
1009 removable in accordance with applicable law.

1010 8.2.2 The Chief of Police shall be responsible to the Town Council for the proper administration of all affairs
1011 of the Police Department placed in their charge by the Town Council, including managing the Town Council-approved
1012 budget for their department.

1013 8.2.3 Vacancy from Office. In case of the absence, disability, or suspension of the Police Chief, the Council
1014 may designate some other competent person to perform the duties of the office during such absence, disability, or
1015 suspension.

1016 8.2.4 The Police Chief shall make recommendations on all personnel matters, including by way of example
1017 and not limitation, the hiring, termination, promotion, or discipline of any and all employees of the Police Department
1018 to the Mayor and Council, who will be the sole and final judge of said decisions.

1019 8.2.5 The Town's Personnel Committee shall act as a Board of Appeal for the protection of Police Officers.
1020 An aggrieved employee of the Town shall have the right to petition for a hearing before such Board of Appeal,
1021 provided that the petition is received by the Personnel Committee within fifteen (15) days of receipt of written notice
1022 of termination or suspension. The recommendation of the Personnel Committee shall be forwarded to the Town
1023 Council to decide whether to uphold or overturn the decision of the Police Chief and, in such case, shall be final and
1024 conclusive.

1025 8.3 – Town Manager

1026 (a) The Town Council shall appoint a Town Manager who shall be the Chief Administrative Officer for all
1027 departments and functions of the Town - except the Police Department.

1028 (b) The Town Manager shall be appointed in accordance with the provisions of any resolution, ordinance, and/or
1029 written agreement authorized by the Town Council and specifically applicable to that Town Manager, provided, however,
1030 that:

1031 (1) The Town Council may, at any time, terminate the Town Manager's employment for "just cause" without
1032 payment of any severance pay or benefits. For purposes of this section, "just cause" shall mean conduct amounting to
1033 fraud or material or repeated dishonesty against the Town; employee's intentional material misconduct or repeated
1034 refusal to follow the reasonable directions of Town Council provided that Town Council notifies the employee in
1035 writing, with confirmed receipt by the employee, of the acts deemed to constitute such intentional material misconduct
1036 or repeated refusal, and employee fails to correct such acts (or to begin such action as may be necessary to correct such
1037 acts and thereafter diligently pursues the completion thereof) within (5) five business days after written notice has been
1038 given; unexcused absence from work; intoxication with alcohol or drugs while on Town business during regular
1039 business hours; a conviction or plea of guilty or nolo contendere to a felony; or a breach or violation by the employee
1040 that is not cured within five (5) business days after written notice has been given, with confirmed receipt to the
1041 employee.

1042 (2) The Town Council may at any time terminate the Town Manager's employment without "just cause" upon
1043 payment to the Town Manager of such severance pay and benefits as provided in the terms of any resolution,
1044 ordinance, and/or written agreement governing the employment of that Town Manager. In case of the extended
1045 absence, disability, or suspension of the Town Manager, the Council may designate some other competent person to
1046 perform the duties of the office during such absence, disability, or suspension; subject to the Town Council's authority
1047 aforsaid, the Town Manager may appoint a Town employee to serve as "Acting Town Manager" during the Town
1048 Manager's temporary absences.

1049 (c) The Town Manager shall be responsible to the Town Council for the proper administration of all affairs of the
1050 Town placed in their charge by the Town Council.

1051 (d) The Town Manager shall make recommendations on all personnel matters, including by way of example and
1052 not limitation, the hiring, termination, promotion, or discipline of any and all employees in their charge to the Mayor and
1053 Council, who will be the sole and final judge of said decisions.

1054 (e) The Town Manager shall, as authorized by Council, have administrative charge and supervision of the sewer
1055 system, electric utility, street lighting, streets, gutters, curbs, sidewalks, parks, and other administrative affairs of the Town
1056 and all work relating thereto and the respective Department Head(s) shall have operational charge and supervision
1057 respectively. The Town Manager shall have charge of and shall oversee the collection of all taxes, assessments, rentals,

1058 franchise fees, license fees, or other charges due to the Town. The Town Manager shall have charge of the administration of
1059 all provisions of this Charter and ordinances and resolutions of the Town Council relating to the affairs of the Town when
1060 not otherwise provided for by this Charter or by any ordinance or resolution of the Town Council.

1061 (f) The Town Manager shall ensure a full and strict account of all monies received, and all disbursements made by
1062 the town are kept, and such accounts shall, at all times, be open to inspection by the Town Council.

1063 Article IX: Creation Of Officers Or Departments

1064 9.1 – General Provisions

1065 The Council may establish Town officers and departments in addition to those created by this Charter, and may
1066 prescribe the functions. The Council may also recommend the abolition of officers and departments and the transfer of
1067 functions. The Council may provide for the selection of suitable persons to fill any position or office.

1068 Article X: Administrative Policy

1069 10.1 - Personnel Provisions

1070 (a) All appointments and promotions of Town employees shall be under the direction of the ~~Council~~. Mayor and
1071 Council, including by way of example and not limitation, the hiring, termination, lay-off, promotion, or discipline of any
1072 and all employees.

1073 (b) The Council may provide personnel rules which shall be adopted by the Council ~~by ordinance, with or without~~
1074 ~~amendment~~ as it deems appropriate.

1075 (c) Personnel Records:

1076 The Town Council may cause to be kept a full and complete record of all officers appointed and employees and
1077 agents hired by the Town, containing the names of such officers, employees, and agents, the dates of their employment, any
1078 salary or compensation to be by them received, the date of the termination of their services, and any other relevant
1079 personnel employment information.

1080 (d) The Town Council shall, by ordinance, budget, or resolution, fix the amount of any salaries or compensation
1081 for the employees of the Town, provided that the Mayor and Town Council members shall not be included under this
1082 subsection. No officer, employee, or agent of the Town shall in any form have, take, or receive from the town any
1083 compensation, in addition to the salary or compensation fixed by the Town Council, except for reimbursement for actual
1084 and necessary expenses incurred by them in the performance of their duties, if such reimbursement is authorized and
1085 approved by motion, resolution, or order of Council.

1086 ~~10.2 – Retirement Plan~~

1087 The Council may provide by ordinance for a retirement plan for any or all groups of employees in the service of
1088 the Town.

1089 ~~10.3~~ 10.2 - Contracts

1090 (a) All contracts of whatever character involving an expenditure above an amount determined by resolution of the
1091 Council shall be written and shall be let and made by the Council and shall be based on specifications provided by the
1092 appropriate person designated by the Council.

1093 (b) Pending advertisement for bids, any plans, specifications, and profiles to be used in the proposed work or
1094 contract shall remain on file in the office of the Council and shall be subject to the inspection of any interested person. All
1095 contracts and purchases above an amount determined by resolution of the Council shall be entered into and made only after
1096 advertising not less than two times in a newspaper of general circulation in Kent County inviting competitive bids. Each
1097 such bid shall be sealed and filed with the person designated by the Council. All bids shall be opened in the presence of the
1098 Council or a duly authorized committee of the Council and shall remain on file.

1099 (c) The Council shall consider all bids which have been properly filed and may enter into a contract with the party
1100 offering the lowest and/or the bid ~~which~~ that the Council determines to be best qualified and suited to serve the interests of
1101 the ~~Town~~ Town, even though it may not be the lowest bid. The Council may reject all bids and readvertise for bids, or they
1102 may have the work done under the supervision of the proper department of the Town. The awarding of a contract to the
1103 successful bidder shall give no right of action or claim against the Town upon such bid or contract until the same shall be
1104 reduced to writing and duly signed by the contracting parties. The Council shall have the power to require all bidders to
1105 post bonds to secure the performance of the contract and all claims for labor and material used in the work. The Council
1106 may reject any supplies as well as any other public work and buy supplies on the open market at a price less than the lowest
1107 bid received, or, if no bids are received, the Council may direct the purchase of supplies in the open market. Nothing in this
1108 section shall be construed to apply to contracts for the provision of utility service at rates regularly on file with the Public
1109 Service Commission of Delaware or any federal regulatory body.

1110 (d) Any requirement provided for within this Section should not apply to contracts for professional services not
1111 within the scope of the Delaware Professional Services Act (29 Delaware Code, Chapter 69, Subchapter II) as it may from
1112 time to time be amended.

1113 Article XI: Financial Procedure

1114 11.1 - Fiscal Year

1115 The fiscal year of the Town of Clayton ~~shall~~ may begin on the first day of January in each year and ~~shall~~ may end
1116 with the next succeeding thirty-first day of December. Such fiscal year shall also constitute the budget and accounting year.

1117 11.2 - Budget.

1118 (a) Annually each year, the Council shall cause to be submitted a budget containing the financial plan for
1119 conducting the affairs of the Town for the ensuing fiscal year. The budget for the ensuing fiscal year shall be adopted by the
1120 Council not later than the last day of the fiscal year currently ending. The tax rate for the ensuing fiscal year shall be
1121 adopted at the time the budget is completed.

1122 (b) The budget may contain the following information:

1123 1. A detailed estimate of the expense of conducting each department and office of the Town for the ensuing
1124 fiscal year.

1125 2. The value of supplies and materials on hand, together with the nature and kind of any machinery or other
1126 implements and the condition thereof.

1127 3. The amount of the debt of the Town, together with a schedule of maturities of bond issues.

1128 4. A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond
1129 maturing during the year, the amount required for the sinking fund.

1130 5. An estimate of the amount of money to be received from taxes and all other anticipated income of the Town
1131 from any source or sources.

1132 6. The Council shall allow adequate reserve for depreciation.

1133 (c) The budget shall be used as a guide in determining Town expenditures but shall not be a limitation upon the
1134 power of the Council to appropriate funds in excess of the amounts set forth in the budget, ~~if in its discretion~~ if, at its
1135 discretion, it seems advisable to do so.

1136 11.3 - Independent Audit

1137 ~~Annually, the Council shall designate a firm of certified public accountants who, as of the end of the fiscal year,~~
1138 ~~shall make an independent audit of accounts and other evidences of fiscal transactions of the Town government and shall~~
1139 ~~submit their report to the Council. Such accountants shall have no direct or indirect personal interest in the fiscal affairs of~~
1140 ~~the Town government or any of its officers. They shall not maintain any accounts for the Town, but shall, within~~
1141 ~~specifications approved by the Council, audit the books and documents of all appropriate officers and employees of the~~
1142 ~~Town government in all departments, offices and agencies. Designation of the accountants shall be made by the Council not~~
1143 ~~later than thirty (30) days after the beginning of the fiscal year for which the audit is to be conducted. When received, the~~
1144 ~~audit report shall become part of the Council minutes. The Town Council shall retain a certified public accountant to be the~~
1145 ~~auditor of accounts of the Town of Clayton. It shall be the duty of the auditor to audit the accounts of the Town and all its~~
1146 ~~officers whose duty involves the collection, custody, and payment of monies to or by the Town. The auditor shall, on or~~

1147 before the final month of the following fiscal year, make and deliver a detailed report of any and all accounts, records, and
1148 books from the previous fiscal year by them examined and audited, which report under their hand and seal shall be
1149 available for public inspection; provided, however, anything herein to the contrary notwithstanding, the date for submission
1150 of the auditor's report may be extended by the Town Council beyond December 1st, at the written request of the auditor for
1151 reasonable cause shown. The auditor, in the performance of their duties, shall have access to all records and accounts of the
1152 offices of the town.

1153 11.4 - Use of Town Monies:

1154 11.4.1 - The Town Council shall have full power and authority to use the money of the Town, or any portion
1155 thereof, from time to time, for the improvement, benefit, protection, ornamentation, and best interests of the Town as
1156 Council may deem proper, and to use Town money to accomplish and carry into effect all acts and things which it has
1157 the power to do by virtue of the laws of Delaware, this Charter, and all lawful ordinances and resolutions of the Town
1158 Council.

1159 11.4.2 - The Town Council shall oversee the Town Manager, Police Chief, and other authorized Town
1160 employees in their handling of and dealing with all monies owed or belonging to or in possession of the Town, in those
1161 individuals' handling of all expenditures of Town monies, and those individuals' incurrence of accounts payable, debts,
1162 or other financial obligations by, for, or in the name of the Town.

1163 11.4.3 - All accounts payable, debts, or other financial obligations incurred by, for, or in the name of the
1164 Town shall be presented to the Town Council in the following formats:

1165 (a) Any normal, routine, and recurring debt, bill, account payable, or financial obligation (hereinafter
1166 "routine bill") under \$2,000 may be incurred and paid with the approval of the Town Manager or Police Chief
1167 contingent upon which appointee's jurisdiction the charge originated.

1168 (b) All non-routine accounts payable, bills, debts, or financial obligations incurred by, for, or in the name
1169 of the Town shall be presented for prior approval by a majority vote of the entire Council before such obligation
1170 shall become binding upon the Town; and any such account payable, debt, bill, or other financial obligation
1171 incurred without the Town Council's prior approval shall be deemed to be incurred conditionally and contingent
1172 upon the Town Council's approval, as hereinabove provided.

1173 (c) No payment, either routine or non-routine, shall be made by the Town except by check or draft drawn
1174 upon duly authorized Town of Clayton accounts and signed by the Mayor and Town Manager or any three
1175 members of the Town Council.

1176 Article XII: Elections

1177 12.1 - Council Election

1178 (a) Members of Council shall be elected as follows: Council members shall be elected by the qualified voters of
1179 the Town at large; in ~~odd-numbered years~~ odd-numbered years, election for three (3) Council members shall be held, and in
1180 ~~even-numbered years~~ even-numbered years, election for two (2) Council members shall be held.

1181 (b) All candidates must file a Town of Clayton Candidate Registration Form for Town Council and a Kent County
1182 Certificate of Intention with the Town Clerk at the Town office during normal business hours no later than 4:30 p.m. on the
1183 third Tuesday prior to Election Day. Filing dates shall begin the sixth Tuesday prior to Election Day and shall end the third
1184 Tuesday prior to Election Day.

1185 12.2 - Election Procedure

1186 ~~12.2.1 Voting Qualifications~~

1187 ~~Every citizen of the Town of Clayton who shall have reached the age necessary to vote in an election held~~
1188 ~~under the laws of the State of Delaware, who is a citizen of the United States and who is a bona fide resident within the~~
1189 ~~Town shall be entitled to vote.~~

1190 ~~12.2.2 Election Officers~~

1191 ~~(a) The election shall be held by three qualified voters of said Town, who shall be designated for that~~
1192 ~~purpose as "election officers" by the Town Council at its last regular meeting in each year, prior to the date of said~~
1193 ~~election, one of whom shall be named to preside. The election officers shall keep a list of all voters at such~~
1194 ~~election.~~

1195 ~~(b) When the polls shall have been closed, the election officers shall publicly count the votes and shall~~
1196 ~~certify the results of the election to each of the persons elected and to the Council. The three (3) candidates for~~
1197 ~~Council member in odd numbered years and the two (2) candidates for Council member in even numbered years~~
1198 ~~who have the greatest number of votes for said office shall be declared elected. When the result of the election~~
1199 ~~shall have been ascertained, the election officers shall make out certificates of election, and deliver them to the~~
1200 ~~various members of Council elected, with the hour and place of meeting of the Town Council at the first stated~~
1201 ~~meeting after their election. A certificate of election shall, also, be given to the Secretary or Town Clerk/Collector~~
1202 ~~to be entered in the minutes of the Town of Clayton.~~

1203 ~~(c) The Council shall set the compensation that the election officers shall receive in connection with the~~
1204 ~~holding of said election.~~

1205 ~~12.2.3 Polling Date~~

1206 The day for elections for Town Council shall be the last Tuesday in April. The election shall be held at the
1207 Town Hall or at such other convenient place within the Town limits as Council shall establish by resolution. The
1208 Council shall advertise the place, date and times of the election at least once a week for two successive weeks
1209 immediately prior to said election in a newspaper of general circulation in the Town of Clayton, and post public notices
1210 containing that information in at least three public places within the Town at least two weeks prior to the date of the
1211 election.

1212 12.2.4 Voting Machines and Ballots

1213 In any election where one or more Council seats are contested, the polls shall remain open between the hours
1214 of 2:00 p.m. and 7:00 p.m. and the election shall be conducted with the use of voting machines obtained from the
1215 Department of Elections of Kent County.

1216 12.2.5 Absentee Voting

1217 The Council shall prescribe by ordinance for absentee registration and for the casting of absentee ballots by
1218 qualified voters unable to be at the polls at any election or referendum.

1219 12.2.1 - Compliance with State Regulations:

1220 The Town shall act in accordance with the state laws governing municipal voting found in 15 Del. C. Ch. 75
1221 (“Municipal Elections”), as it may be hereby amended from time to time, and any other existing or future
1222 corresponding provisions of law and the Town shall implement the election provisions found in this Charter in
1223 accordance with the same state laws governing municipal voting.

1224 12.2.2 - Voter Qualifications.

1225 12.2.2.1 Any person shall be qualified to vote who, on the date of the election:

1226 (a) is a United States citizen;

1227 (b) has attained eighteen (18) years of age;

1228 (c) has been domiciled in the Town for at least thirty (30) days;

1229 (d) has not been disenfranchised according to Section 3.5.2 of this Charter or Section 7 of Article V
1230 of the Constitution of the State of Delaware.

1231 Persons appearing to vote shall present proof of identity and address pursuant to 15 Del. C. Ch. 75
1232 (“Municipal Elections”). For purposes hereof, a person is “domiciled” in the Town when they physically reside
1233 within the corporate limits of the Town with the actual intent to make that residence their fixed and permanent
1234 home; however, any person who is enlisted or engaged in any government service of the United States or any
1235 military organization of this State or of the United States, which service requires him/her to reside outside the

1236 limits of the Town, shall be considered to be a domiciliary of the Town during the period of their service so long
1237 as it remains their actual intention to retain Clayton as their fixed and permanent home. This section shall not be
1238 construed to preclude those who rent their residence from voting or running for Council. All questions regarding
1239 an individual's qualification to vote raised before the day of the election shall go before the Board of Elections,
1240 and an individual shall be given notice and an opportunity to be heard before the Board of Elections regarding that
1241 individual's qualification to vote. Questions regarding an individual's qualifications to vote that are raised at the
1242 time of voting shall be resolved by the Board of Elections or its designated Election Officers.

1243 12.2.2.3 Trusts, Corporations, Partnerships, and Limited Liability Companies (LLCs, both general and
1244 limited) are artificial entities and are not considered natural persons; therefore, they cannot vote in Town elections.

1245 12.2.3 Voter Registration:

1246 The Town Council may enact such ordinances concerning the registration of qualified voters for municipal
1247 elections in the Town as it deems reasonably necessary to provide for the orderly and efficient conduct of municipal
1248 elections - provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor shall
1249 any such ordinances unduly impair the right to vote in a municipal election.

1250 12.2.4 Uncontested Elections; Write-In Candidates:

1251 (a) If there is only one official candidate for each office up for election, and if none of the official
1252 candidates have a formal opponent on the day of the election, they are deemed to be re-elected for a full term, and
1253 an election is not necessary - that is if the incumbent agrees to serve. If the incumbent does not agree to serve, the
1254 Council shall fill the vacancy according to Section 3.5.5 of this Charter.

1255 (b) No person or candidate whose name does not appear on the ballot shall be eligible for election, and
1256 votes for "write-in" candidates shall not be counted.

1257 12.2.5 Date, Time, and Place and Manner of Conducting Elections.

1258 (a) Date, Time, and Place:

1259 The annual Town Election shall be held on the last Tuesday in April of each year at such time and place
1260 within the Town as shall be determined by the Town Council. The polls shall remain open for no fewer than six
1261 (6) hours. The polling times shall be determined by the Town Council.

1262 (b) Notice of Elections:

1263 Notice of Town elections shall be posted in writing in a public place and on the Town's website no later
1264 than twenty (20) days prior to the election date. Additionally, notice of elections shall be published at least once
1265 prior to the date of the election in a newspaper of general circulation in the Town. Such notices shall be in bold

1266 print or bordered in black in such manner as to call attention thereto. If the publications and/or postings do not
1267 appear on the same date, the date of the first publication shall control. The notice of elections shall include the
1268 date, time, and place of the election, the names of the candidates for each office, and the qualifications to vote. The
1269 Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this
1270 Charter or with controlling state or federal law, governing the notice of elections.

1271 (c) Voting machines:

1272 Elections shall be by voting machine provided by the Department of Elections in accordance with 15 Del.
1273 C. Ch. 75 (“Municipal Elections”), as it may be hereby amended from time to time, and any other existing or
1274 future corresponding provisions of law.

1275 (d) Absentee Voting:

1276 The Town Council may (but shall not be required to), by ordinance, provide for a qualified voter (duly
1277 registered if required by ordinance) who shall be unable to appear in person to cast their ballot at any municipal
1278 election by absentee ballot. All absentee voting authorized by the Town shall be conducted in accordance with 15
1279 Del. C. Ch. 75 (“Municipal Elections”), as it may be hereby amended from time to time, and any other existing or
1280 future corresponding provision of law.

1281 (e) Rules Governing Conduct of Elections.

1282 The Town Council shall follow the rules governing the conduct of elections and voting procedures found
1283 in 15 Del. C. Ch. 75 (“Municipal Elections”), as it may be hereby amended from time to time, and any other
1284 existing or future corresponding provisions of law. The Town Council may, by ordinance or resolution, adopt such
1285 rules not inconsistent with the provisions of this Charter or with controlling state or federal law governing the
1286 conduct of elections.

1287 (f) Board of Elections.

1288 Every election shall be held under the supervision of a Board of Elections. The Board of Elections shall
1289 consist of five (5) persons (as determined by the Town Council) who shall be qualified voters of the Town and
1290 shall not be an elected official or candidate for Town office or a family member of such (and who shall be
1291 appointed for that purpose by the Town Council at least twenty (20) days before such election. The Board of
1292 Elections shall serve for a term of one year commencing the Council meeting in February, provided that the term
1293 of the Board of Elections shall in no instance expire until a successor Board of Elections has been appointed.
1294 Members of the Board of Elections may serve for more than one term. Each board member shall be confirmed and
1295 have their name and contact information publicly posted in accordance with 15 Del. C. Ch. 75 (“Municipal

1296 Elections”), as it may be hereby amended from time to time, and any other existing or future corresponding
1297 provisions of law. The Town shall notify the State Election Commissioner and Department of Elections of the
1298 members appointed to the Board of Elections. The Board of Elections shall oversee the absentee ballots and either
1299 appoint an odd number of absentee ballot judges or, at the discretion of the Town Council, act as the absentee
1300 ballot election judges. If at the opening of the polls, there shall not be present all the members of the Board of
1301 Elections, then in such case, the Mayor or the highest ranking Council-member available at the opening of the
1302 polls shall appoint a qualified voter or voters to act as a member or members of the Board of Elections to fill such
1303 vacancies caused by the absence of the previously-appointed members of the Board of Elections through the
1304 conclusion of the election. Members of the Board of Elections shall be the sole and final judges of the conduct of
1305 the election and the legality of the votes offered. The Board of Elections shall keep a list of all voters voting at said
1306 election. The Board of Elections shall have the power to subpoena persons and officers of the Town, and books,
1307 records, and papers relative to the determination of the qualifications of voters and the legality of any vote or votes
1308 offered. The Board of Elections may appoint election officers (including an inspector) - when needed - to
1309 administer elections. In the absence of the appointment of election officers, members of the Board of Elections
1310 shall act as election officers, and the Board of Elections shall designate one of the board members as the inspector.
1311 In accordance with 15 Del. C. Ch. 75 (“Municipal Elections”), the Town shall issue a Certificate of Appointment
1312 to the member, and the member shall swear or affirm the following oath orally and in writing:

1313 “I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States
1314 and the Constitution of the State of Delaware, and that I will faithfully discharge the duties as a member of the
1315 Board of Elections for the Town of Clayton by ensuring that elections within the town are conducted fairly,
1316 impartially and in accordance with the Delaware Code and Town charter and ordinances to the best of my
1317 ability.”

1318 In accordance with 15 Del. C. Ch. 75, members of the Board of Elections are prohibited from
1319 participating in any and all electioneering activities.

1320 (g) Election Results:

1321 Upon the close of the election, the Board of Elections or a representative from the Department of
1322 Elections shall count the votes, and the candidate having the highest number of votes for each office shall be
1323 declared, by the Board of Elections, to be duly elected to such office.

1324 (h) Ties:

1325 In the event of a tie vote for any office, the State Election Commissioner shall order a new election in
1326 which only the candidates or positions tied will be on the ballot.

1327 (i) Preservation of Ballots and Records:

1328 All ballots cast and all records of the election kept by the Board of Elections shall be preserved in the
1329 custody of the Board of Elections for a period of thirty (30) days unless the election is contested or an appeal is
1330 filed in a court of appropriate jurisdiction, in which case such ballots and records shall be preserved until the
1331 further direction of the reviewing body or court having jurisdiction.

1332 (j) Election Record Book:

1333 The Board of Elections shall enter in a book, to be provided for that purpose, the results of the election
1334 containing the names of the persons elected. The members of the Board of Elections shall subscribe to the same.
1335 The book containing such matters shall be preserved by the Town Council.

1336 Article XIII: General Provisions

1337 13.1 - Performance Bonds

1338 The Town Clerk/Tax Collector, Treasurer and such other officers and employees of the Town as the Council may
1339 require, shall give bonds for the faithful performance of their duties in such amounts and with such surety as may be
1340 approved by the Council. The premiums on such bonds shall be paid by the Town.

1341 13.2 - Oath of Office

1342 Every member of the Council, the Council President, the Council Vice-President, the Town Treasurer, the Town
1343 Secretary, and such other officers or employees as Council may by ordinance require, shall, before entering upon the duties
1344 of their office, take and subscribe to the following oath or affirmation, to be filed and kept in the Office of the Town
1345 Secretary:

1346 "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States; the
1347 Constitution of the State of Delaware; and the Charter of the Town of Clayton, Delaware; and that I will well and
1348 faithfully discharge the duties of the Office of _____ according to the best of my ability."

1349 The President of ~~Council~~ Council, a Justice of the Peace, the Town Solicitor, and other members of Council shall
1350 have the power to administer oaths required by this Charter.

1351 13.3 - Charter Amendments

1352 The Council may, by ordinance, provide a procedure by which it may propose to the voters an amendment to this
1353 Charter, but said procedure shall, in all respects, comply with applicable State law. ~~Referendum~~ A referendum on such
1354 amendments proposed may be held at a regular or special election, as determined by the Council by resolution.

1355 Amendments to this Charter to be voted on at referendum shall be presented for voting by ballot title. The ballot title may
1356 differ from its legal title and shall be a clear, concise statement describing the substance of the proposed amendment
1357 without argument or prejudice. If a majority of the qualified voters of the Town of Clayton voting upon the proposed
1358 Charter amendment, vote in favor of it, the amendment shall become effective at a the time fixed in the amendment or,
1359 upon ~~adoption by the voters:~~ approval of both chambers of the General Assembly.

1360 13.4 - Severability of Charter Provisions

1361 If any provision of this Charter or the application thereof to any person or circumstance is held invalid, such
1362 invalidity shall not affect other provisions or applications of this Charter which can be given effect without the invalid
1363 provisions or applications, and to this ~~end~~ end, the provisions of this Charter are declared to be severable.

1364 13.5 - Prohibitions

1365 Contracts with the Town. It shall be unlawful for the Council or the Town's officers, agents, or employees to make
1366 or enter into any contract for materials, supplies, ~~work~~ work, or labor for the use and benefit of the Town of Clayton with
1367 any member of the Council or with any partnership in which any member of the Council is a partner, or with any
1368 corporation in which any member of the Council is a director or stockholder or with any firm or company in which any
1369 member of the Council is pecuniarily interested, except with the unanimous consent of the entire Council, and such contract
1370 be absolutely null and void without such unanimous consent, provided, however, that nothing herein shall prohibit the
1371 Council, the Town's officers, agents or employees, from entering into any such contract without such approval where the
1372 amount involved in the transaction and other related transactions does not exceed the sum of ~~One Hundred Dollars~~
1373 ~~(\$100.00)~~ \$1000.

1374 Article XIV: Transitional Provisions

1375 14.1 - Former Government in Force

1376 All ordinances, resolutions, ~~orders-rules~~ orders, rules, or regulations in force in the Town of Clayton at the time
1377 this Charter takes effect, regardless of the authority under which originally enacted, shall continue in full force and effect
1378 until the Council otherwise provide by ordinance, notwithstanding any change in organization effected by this Charter.

1379 14.2 - Continuance in Office

1380 (a) All persons holding any non-elective office or employment under the Town of Clayton at the time this
1381 Charter goes into effect shall continue in such office or employment and shall draw the same rate of compensation as
1382 during the month preceding the adoption of this Charter until removed or until the compensation is changed.

1383 (b) The President of the Council of Clayton shall continue as the President of the Town Council as well as
1384 other officers of the Town of ~~Clayton~~ Clayton, and the Council members shall also continue in office until their
1385 successors are elected and qualify as previously provided for in this Charter.

1386 14.3 - Effective Date

1387 This Charter shall become effective thirty (30) days after adoption by the General Assembly of the State of
1388 Delaware in accordance with the Constitution and the laws of the State of Delaware.

SYNOPSIS

This Act is a comprehensive amendment of the Town Charter for the Town of Clayton. It sets forth detailed basis for removal from office of Mayor and Town Council and process for filling any vacancies on Town Council. The Amendment allows the Mayor and members of Town Council to participate and vote in Council meetings by remote electronic means, when unavoidable circumstances prohibit in person attendance, so long as all members can hear and speak with one another. The Act allows the Town to borrow up to an amount not to exceed 20% of the assessed value of assessable and taxable real property within the Town limits. The Act also allows the Town to purchase general obligation bonds not to exceed 20% of the assessed value of all real estate subject to taxation within the Town. The Act establishes the Town's power to regulate orderly growth and development including subdivisions and site plans and procedures for securing financial guarantees to ensure satisfactory completion of new land development. The Act also allows the Town to adopt the assessment of Kent County in lieu of making its own independent assessment and valuation for purposes of levying town taxes. The Act specifies the Town Manager is the Town Tax Collector. The Act allows the Council, by ordinance, to impose impact fees and the purpose for such impact fees. The Act specifies the duties of the Police Chief and Town Manager. The Act specifies all appointments and promotions of Town employees shall be under the direction of the Mayor and the Town Council including hiring, termination, promotion or discipline of all employees. The Act specifies use of Town money by Town Council. The Act sets forth new election procedures, including voter qualifications, voter registration, and conduct of elections for Town elections.