SPONSOR: Rep. Spiegelman & Sen. Hoffner

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 139
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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

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

Section 1. Amend the Charter of the Town of Townsend by making deletions as shown by strike through and insertions as shown by underlines as follows:

PREAMBLE

Article I Incorporation

1.1 Incorporation

1.2 Boundaries

1.3 Annexation of Territory

Article II Powers of the Town

2.1 Powers of the Town

Article III Composition of Government

3.1 Composition of Government

Article IV Powers of the Council

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4.4 File of Ordinances

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4.6 Powers of the Mayor

4.7 Mayor and Council Disqualification and Removal from Office

Article V Nominations and Elections

5.1 Elections

HR : RTA : AFJ : 0801520098
LC : HVW : CBM : 5081520101
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5.2 Term of Office

5.3 Qualifications for Office

5.4 Notice of Candidacy

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Townsend

ARTICLE I INCORPORATION

1.1. Incorporation.

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

1.2. Boundaries.

1.2.1. The limits and boundaries of The Town of Townsend in New Castle County, Delaware, shall be as previously fixed and established or hereafter altered according to law and shall be marked and defined according to maps and plots now of record or hereafter recorded in the Office of the Recorder of Deeds in and for New Castle County pursuant to lawful annexation proceedings. Such maps and plots, when so made and approved by Town Council, and when recorded in the Office of the Recorder of Deeds of the State of Delaware, in and for New Castle County, shall be deemed to be the true and correct maps and plots of the ~~town~~ Town and of all the streets, boundaries, lanes and alleys thereof, and the same, or the record thereof, or a duly certified copy of said record, shall be evidence in all courts of Law and Equity in the State of Delaware.

1.3. Annexation of Territory.

1.3.1. Procedure to extend boundaries.

The Town may, from time to time, extend its boundaries in accordance with Title 22, Chapter 1, Section 101 (22 Del.C. §101) through the following annexation processes:

1.3.1.1. In the case where annexation is petitioned by all owners of all property considered for annexation, no election shall be required. For an annexation petition not requiring an election, such petition shall be processed in accordance with procedures established for amendments to the zoning map, specified by State law and by ordinance. All annexation petitions shall be processed concurrently with the rezoning of the property considered for annexation and shall be subject to public hearing before Town Council. Public notice shall be completed in accordance with the Code provisions of the Town of Townsend relating to amendment of the zoning map.

1.3.1.2. In the case where annexation is not petitioned by all owners of all property considered for annexation, such annexation shall be subject to an election, as follows:

1.3.1.2.1. In order to extend the boundaries of the Town of Townsend, Council shall adopt a resolution proposing the inclusion of all property considered for annexation within the limits of The Town of Townsend and calling for a special election to be held not less than thirty (30) nor more than sixty (60) days after the adoption of the resolution, in accordance with Title 22, Chapter 1, Section 101, Delaware Code. The resolution shall contain a description of all property considered for annexation, the date of the election, and the place or places of said election. The resolution shall be published in at least two (2) issues of a newspaper of general circulation within the Town of Townsend at least two (2) weeks prior to the day of said election.

1.3.1.2.2. The annexation election shall be held by the Town's election officers. Each owner of the property considered for annexation shall be entitled to one (1) vote. Owners of real estate in common shall be entitled to one (1) vote each. Life tenants shall be entitled to one (1) vote each but the holders of the remainder interest or similar interest subject to the life estate shall not be entitled to vote. Corporations, firms or associations shall be entitled to one (1) vote, the same as private persons.

More than one (1) annexation election may be held on the same day; however, the elections shall be separate.

1.3.1.2.3. The Council of the Town of Townsend shall provide the ballots and shall bear the cost of holding such annexation elections. The ballots shall briefly indicate the property proposed for annexation and shall provide two (2) boxes on the ballot beside which shall appear the words "FOR inclusion within The Town of Townsend," and "AGAINST inclusion within The Town of Townsend." Each voter shall indicate their preference by making a mark within the box beside the words expressing their preference.

1.3.1.2.4. For the annexation election, the polls shall open at 11:00 a.m. to and remain open until each eligible voter has cast their vote or until 8:00 p.m., whichever occurs first. When the polls are closed the election officers shall publicly count the votes and forthwith certify to the clerk of the council the number of votes cast for and against inclusion

within the ~~town~~ Town limits. At the next regular or special meeting of the council the mayor and council shall receive the results of the election and make the same a part of the minutes of said meeting.

1.3.1.2.5. If a majority of the votes cast in an annexation election are in favor of the inclusion of that property, the council may thereupon adopt a resolution annexing said property and including same within the limits of the Town of Townsend. Upon the adoption of a resolution of annexation a copy thereof certified by the clerk of council and a plot of the area annexed shall be forthwith filed for record with the Recorder of Deeds of New Castle County, and the area so annexed shall for all purposes thenceforth be part of the Town of Townsend.

1.3.1.2.6. If a majority of the votes cast in an annexation election shall be against the inclusion of that property within the limits of the Town of Townsend, the proposed annexation of said property shall be declared to have failed. Nothing in this Charter shall prohibit the Council from resubmitting a proposal for annexation to the eligible voters for said property, or any portion thereof, under the authority of this section and in accordance with the provisions thereof.

ARTICLE II POWERS OF THE TOWN

2.1. Powers of the Town

2.1.1. General. The Town of Townsend shall have all powers possible for a ~~town~~ Town to have under the Constitution and Laws of the State of Delaware as fully and completely as though they were specifically enumerated in this Charter. The ~~town~~ Town shall have the powers to make, adopt, and establish all such ordinances, resolutions, regulations, rules and by-laws not contrary to the laws of the State of Delaware and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the ~~town~~ Town, the protection and preservation of person and property, and the public health and welfare of the ~~town~~ Town and its inhabitants. The ~~town~~ Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one or more states or civil divisions or agencies thereof, including the government of New Castle County, other municipalities, the State of Delaware, the United States, or any agency thereof. Any tax of any kind, to be imposed, levied, assessed, or collected pursuant to authority granted by this Charter shall comply with the provisions of § 2001 of Title 22 of the Delaware Code.

2.1.2. Enumeration of Powers. Not by way of limitation upon the scope of the powers vested in the Town Council to exercise all powers delegated by this Charter to the ~~town~~ Town (except as may expressly appear herein to the contrary), but rather by way of enumeration and for purposes of clarity, the Town Council is vested by this Charter with the following powers, that is to say the Town Council:

2.1.2.1. may have and use a corporate seal, which may be altered, changed, or renewed at any time.

2.1.2.2. may hold and acquire by gift, negotiation and purchase, devise, lease, or condemnation property both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the ~~town~~ Town, in fee simple or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to providing sites for construction, improving, extending, altering or demolishing:

2.1.2.2.1. public buildings;

2.1.2.2.2. parks;

2.1.2.2.3. streets, squares, lanes, alleys;

2.1.2.2.4. sewer systems, including but not limited to sewage lines, conduits, sewage disposal or treatment plants, and all appurtenances thereto;

2.1.2.2.5. water systems, including but not limited to water plants, well lines, conduits and all appurtenances thereto;

2.1.2.2.6. recreational facilities, including but not limited to gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddle courts and all appurtenances thereto;

2.1.2.2.7. adequate municipal services for persons and other legal entities residing either within or beyond the corporate limits of the ~~town~~ Town, to their mutual benefit and advantage, upon such terms, charges, and conditions as the Town Council may determine and approve;

2.1.2.2.8. slum clearance and redevelopment, urban renewal, revitalization or rehabilitation of blighted areas or removal of dangerous buildings;

2.1.2.2.9. protection services for the citizens of the ~~town~~ Town to include, but not limited to, police, fire, rescue, and paramedic support.

2.1.2.3. may sell, grant, alienate, lease, mortgage, manage, hold and control such property as the interests of the ~~town~~ Town may acquire except as prohibited by the Constitution or Laws of the State of Delaware or as restricted by this Charter;

2.1.2.4. may pay for the acquisition, construction, improvement, repair, extension, alteration or demolition of any ~~town~~ Town property (real, personal or mixed) from the general fund of the ~~town~~ Town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which lands and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the ~~town~~ Town by any governmental entity of the United States and/or the State of Delaware and/or New Castle County where the proceeds of the grant or loan are for the purposes for which lands and premises are authorized by this Charter to be acquired:

2.1.2.5. may acquire, build, erect, and maintain buildings and facilities necessary or required for housing and equipping the offices of the ~~town~~ Town;

2.1.2.6. may purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, trash collection fee, charge growing out of abatement of nuisances, or other charge due to the ~~town~~ Town and sell the same;

2.1.2.7. may;

2.1.2.7.1. ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, improve, dredge, erect, remove, repair and replace any new or present street, drain, gutter, aqueduct or pipeline or portion thereof, or any new or present curb, or gutter or portion thereof, in the ~~town~~ Town and the strand in or contiguous to the ~~town~~ Town;

2.1.2.7.2. specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done;

2.1.2.7.3. enter into contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, highway, road, alley, sidewalk or other public thoroughfare within the ~~town~~ Town;

2.1.2.8. may provide, construct, extend, maintain, manage and control bulkheads, embankments, rip rap, piers or fills for the preservation of any waterway, stand or high land within the corporate limits of the ~~town~~ Town and contiguous thereto to the end that the same may be preserved and properly protected that the general public might enjoy the use thereof;

2.1.2.9. may regulate and control the planting, growing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and lands of the ~~town~~ Town and may authorize or prohibit the removal or destruction of said trees;

2.1.2.10. may fully control the drainage of all surface water within the ~~town~~ Town, and to that end, may provide, construct, extend, maintain, manage and control a surface water drainage system for the health, sanitation, and convenience of the inhabitants of the ~~town~~ Town;

2.1.2.11. may provide an adequate supply of potable water for the ~~town~~ Town and its inhabitants and, to this end, may: acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, water treatment facilities, stations, tanks, standpipes, water mains, fire hydrants, and all other equipment, property, or rights used in or about the collection, storage, purification, conveyance or distribution or sale of water; regulate and prescribe for what public or private purposes the water furnished by the ~~town~~ Town may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the

fines or penalties, or both, for any willful or negligent injury, or damage to or interference with the water system or the equipment of the ~~town~~ Town; furnish or refuse water from the ~~town~~ Town system to places and properties outside the ~~town~~ Town corporate limits; and contract for and purchase water and distribute the same to users within or without the ~~town~~ Town with the same full powers as though such water had been initially reduced to usefulness by the ~~town~~ Town itself;

2.1.2.12. may: provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the ~~town~~ Town; regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts which shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plant or facilities; furnish or refuse to furnish sewer disposal service from the ~~town~~ Town system to places and properties outside the ~~town~~ Town limits; compel any and all properties in the ~~town~~ Town to be connected to the sewer system of the ~~town~~ Town.

2.1.2.13. may provide for the control of the lighting of streets, highways, roads, alley, waterways, parks, strands, crosswalks, wharfs, docks, public buildings or other public places in the ~~town~~ Town;

2.1.2.14. may regulate, control or prevent the use or storage of all combustible or dangerous materials and the use of candles, lamps and other lights in stores, shops and other places; and may regulate, suppress, remove or secure any fireplaces, stove chimney, oven broiler or other apparatus which may pose a danger of causing fires;

2.1.2.15. may provide for the organization of a fire department and the control and government thereof; establish fire limits and do all things necessary for the prevention or extinguishment of fires; and contribute or donate funds to any volunteer fire company or companies incorporated under the Laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire association or associations maintaining and operating firefighting equipment and service to the ~~town~~ Town, provided that any such contribution or donation may be made subject to such conditions as to the use thereof as the Town Council may deem advisable;

2.1.2.16. may provide for the organization of ambulance, rescue or paramedic services and the control and government thereof, may establish territories within the ~~town~~ Town for such services; and may at the discretion of the Town Council, contribute or donate funds to any such service formed or incorporated under the Laws of the State of Delaware, or to any volunteer service maintaining and operating ambulance, rescue or paramedic equipment or services for the inhabitants of the ~~town~~ Town, provided that any such contribution or donation may be made subject to such conditions to the use thereof as the Town Council may deem advisable;

2.1.2.17. may prohibit drunkenness, use or distribution of controlled substance, gaming and fraudulent devices and riots, disturbances and disorderly assemblies;

2.1.2.18. may adopt and enforce such ordinances regulating traffic on all streets, highways, roads, alleys, and public ways within the ~~town~~ Town as are consistent with the motor vehicle laws of the State of Delaware

2.1.2.19. may regulate or prohibit the use of streets, highways, roads, alleys, parks, rights-of-way, other public places and ~~town~~ Town -owned lands for commercial use, or activities not otherwise protected from such regulation or prohibition by the Constitution or Laws of either the United States or the State of Delaware;

2.1.2.20. may regulate or prohibit the discharge of guns, air guns, spring guns, pistols, slingshots, bean shooters, and any other device for discharging missiles that may cause bodily injury or injuries or harm to person or property; and may regulate the use of bonfires, fireworks, bombs and detonating works of all kinds within the ~~town~~ Town;

2.1.2.21. may provide for and preserve the health, peace, safety, cleanliness, beauty, good order and public welfare of the ~~town~~ Town;

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

2.1.2.23. may direct the excavation, draining, filling, cleaning, curbing or fencing of privately owned lots, tracts, pieces or parcels of land in the ~~town~~ Town which are deemed dangerous or unwholesome, or necessary to carry out any improvements authorized by this Charter and may assess the cost thereof against the owner thereof;

2.1.2.24. may define, prevent, abate or remove nuisances, obstructions or any other conditions detrimental to the public safety, health or welfare; and may cause the cost of such abatement or removal to the paid by the person or other legal entity causing or permitting same to exist;

2.1.2.25. may adopt ordinances providing for condemnations of any building or structure in the ~~town~~ Town which is determined, on the basis of standards set forth is such ordinances to be a fire hazard or otherwise unsafe, and may cause the same to be torn down or removed;

2.1.2.26. may adopt ordinances to establish and regulate animal pounds and restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large within the corporate limits of the ~~town~~ Town; authorize the destruction of the same; and may regulate the keeping of dogs within the ~~town~~ Town, and provide for registration and fees thereof;

2.1.2.27. may provide for the punishment of a violation of any ordinance of the ~~town~~ Town by appropriate fine, penalty, or forfeiture;

2.1.2.28. may regulate and control the construction, alteration, or removal of dwellings or other structures and provide for granting permits for same;

2.1.2.29. may regulate and control construction activities by private individuals or companies at such times and seasons of the year and at such hour of the day as the Town Council may determine necessary and appropriate for the public health, welfare and convenience;

2.1.2.30. may establish setback lines for buildings and other structures to be erected; zone or district the ~~town~~ Town and make provision for particular zones or districts with regard to construction or building materials; prohibit any construction except that for which a building permit has been issued as prescribed by the Town Council; and exercise all powers and authorities pursuant to 22 Del.C., Chapter 3, or any future corresponding provisions of law;

2.1.2.31. may regulate the conduct of any business, profession or occupation within the corporate limits of the ~~town~~ Town;

2.1.2.32. may license, tax, and collect fees annually for any and all municipal purposes of such various amounts as the Town Council, from time to time, shall fix from any individual, firm, association or corporation carrying on, or practicing any business, profession or occupation within the limits of the ~~town~~ Town;

2.1.2.33. may grant licenses, issue permits, and regulate any activity within the corporate limits of the ~~town~~ Town, whether previously dedicated to or owned by the State of Delaware;

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

2.1.2.35. may appropriate money to pay the debts and liabilities of the ~~town~~ Town or any portion thereof, from any funds available therefore; and may, in case of emergency, temporarily transfer money from one fiscal account to another fiscal account of the ~~town~~ Town;

2.1.2.36. may raise revenue for the ~~town~~ Town by the levying and collection of taxes on real property, taxes on the transfer or sale of real property, taxes on business activities, special assessments, licensing fees and other charges for services;

2.1.2.37. may investigate the conduct of any officer, employee or representative of the ~~town~~ Town, in the conduct of official duties, and for such purpose may compel the attendance of witnesses and the production of books, records, or other evidence by subpoena, and may administer oaths or affirmations;

2.1.2.38. may establish a pension plan or a health and welfare plan or both, for the employees of the ~~town~~ Town under such terms and conditions as the Town Council may deem appropriate, with the funding accomplished through an insurance company licensed by and authorized to do business in the State of Delaware, approved by the Town Council.

ARTICLE III COMPOSITION OF GOVERNMENT

3.1. Composition of Government.

3.1.1. The government of the ~~town~~ Town and the exercise of all powers conferred by this Charter, except as otherwise provided therein, shall be vested in and exercised by the five (5) member Town Council composed of a Mayor and four (4) other members, each of whom shall be elected by popular vote as hereinafter provided. Each Town Councilperson shall serve a term, which shall be for a period of two (2) years.

ARTICLE IV POWERS OF THE COUNCIL

4.1. Ordinances

4.1.1. The Town Council is hereby vested with the authority to enact, adopt, amend and repeal ordinances and adopt resolutions relating to any subject within the powers or functions of a ~~town~~ Town, or relating to the government of a ~~town~~ Town, its peace and order, its sanitation, beauty, health, safety, convenience and comfort of its population, and the protection and preservation of property, and to fix, impose, and enforce payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Section as to ordinances or resolutions on any particular subject shall be held to be restrictive whether specifically enumerated or not.

4.1.2. The Town Council shall not have the power to exempt any individual from the application of any ordinance, regulation, resolution, or rule of the ~~town~~ Town, except as set out in this Charter or as provided by the United States Constitution or the laws of the State of Delaware.

4.1.3. Every ordinance shall be introduced in writing. No ordinance, except emergency ordinances, shall be passed at the meeting at which it is introduced. Upon introduction of an ordinance, a fair summary of said ordinance shall be published at least once on the Town Website ~~in a newspaper or newspapers having general circulation in the municipality~~. Voting on any ordinance shall be by voice vote and the vote of each member of Council on any ordinance shall be entered on the record. No ordinance shall be enacted, adopted, amended or repealed unless it shall have the affirmative vote of a majority of the Town Council, including the Mayor - 3 affirmative votes.

4.2. Meetings.

4.2.1. The Town Council of The Town of Townsend shall hold one (1) meeting in each month. Council shall not be prohibited from rescheduling such meetings from time to time during the year as the need arises. Emergency meetings may be held when necessary for the immediate preservation of public health and safety. Other Town Council meetings may be held when necessary. Notice of all meetings shall be consistent with Title 29, Chapter 100 of the Delaware Code. 83 Del. Laws, c. 273

4.2.2 The Town Council of the Town of Townsend after being sworn in at the Town Council reorganization meeting in June of each year, shall determine rules for Town meetings.

4.3. Quorum.

4.3.1. A majority of the members elected to the Town Council ~~excluding~~ including the Mayor, shall constitute a quorum at any regular or special meeting; but a lesser number may convene from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by Ordinance.

4.4. File of Ordinances.

4.4.1. It shall be the duty of the Town Council at a reasonable time or times, to compile the ordinances, codes, orders and rules of the Town Council. The Town Council shall have access to ordinances, codes, rules, and regulations of the Town of Townsend, ~~a copy printed for each official of the town~~ Town, two for use at the Town Hall, and such compilation shall be published on the ~~town~~ Town website for public information. Upon the enactment of new ordinances, codes, rules and regulations, or upon the enactment of amendments to the same, the Town Clerk shall enroll the same in the journal of the Town Council and shall make copies of the same for inclusion in the aforementioned books and website.

4.5. Emergency Ordinances.

4.5.1. To meet a public emergency affecting life, health, property or the public peace, the Town Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Section 8.7 of this Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it was introduced, but the majority vote of all Town Council members, including the Mayor, shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 120th day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this Section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this Section for the adoption of emergency ordinances.

4.6. Powers of the Mayor.

4.6.1. The Mayor shall preside at all meetings of the Town Council and shall serve as the head of the ~~town~~ Town government for all ceremonial purposes; shall execute, on behalf of the Town, and only when authorized by Town Council majority vote, including the Mayor, all agreements, contracts, bonds, deeds, leases, and other legal documents; shall issue

and sign all licenses for every exhibition with the Town of Townsend for which a license thereof is, or may be required; and shall perform such other duties as may be prescribed by any ordinance or resolution adopted by the Town Council.

4.6.2. The Mayor, or the Mayor's designee, may be authorized by Town Council majority vote, including the Mayor, to conduct negotiations with any one or more companies or any one or more states or civil divisions or agencies thereof, including the government of New Castle County, other municipalities, the State of Delaware, the United States, or any agency thereof, on behalf of the Town.

4.6.3. ~~The Mayor shall have no vote on any matter except in case of a tie. For purposes of establishing a quorum, the Mayor shall not be counted.~~ The Mayor ~~may~~ shall at any time appoint another officer or Council member to preside if he or she desires to make a motion, move the adoption of a resolution, record either, or debate any question from the floor, and may thereafter immediately resume his or her duties as presiding officer.

4.6.4. The Mayor shall appoint all such standing and other committees as the Town Council shall require, subject to confirmation by the Town Council. The Mayor shall be empowered to delegate specific duties and responsibilities and to administer oaths and affirmations.

4.6.5. The Mayor, in concurrence with another Council member, shall be authorized to act on behalf of the ~~town~~ Town, without prior Council approval, only in the event of some sudden emergency requiring immediate action in order to protect the public health, safety, and welfare of the ~~town~~ Town, its residents and property owners.

4.6.6. Violations of Article 4.6 ~~the above~~ shall be deemed "malfeasance" and are grounds for removal from office.

~~4.6.7. In the event that the Mayor becomes disqualified from holding office by reason of resignation, death, removal from the town, conviction of a felony, malfeasance in office, or otherwise, the Town Council, by majority vote at the next regular meeting, will appoint a Mayor Pro Tempore from among its members to succeed to the office of the Mayor for the balance of the unexpired term. The succession of the Mayor Pro Tempore to the office of the Mayor shall create a vacancy in the Council. The procedures for filling this vacancy are found in this Charter in Sec. 5.8.~~

4.7 Mayor and Council Disqualification and Removal from Office

4.7.1 Disqualification from Office

4.7.1.1 In the event that the Mayor becomes disqualified from holding office by reason of resignation, death, change of residency, conviction of a felony, misdemeanor related to their service on Council, malfeasance in office, or otherwise, the Mayor in question shall leave on their own recognizance.

4.7.1.2 In the event that a Councilperson becomes disqualified from holding office by reason of resignation, death, removal from the Town, conviction of a felony, misdemeanor related to service on Council, malfeasance in office, or

otherwise, the Councilperson in question shall leave on their own recognizance. This shall create a vacancy on Council. The procedures for filling this vacancy are found in this Charter in Sec. 5.8.

4.7.2 Removal from Office

4.7.2.1 In the event that the Mayor in question does not leave on their own recognizance, the Town Council at the next Town Council meeting may hold a vote to remove the Mayor and the Mayor may be removed by the affirmative vote of the majority of Councilmembers.

Additionally, the Town Council, by majority vote, at the next regular meeting, will appoint a Mayor Pro Tempore from among its members to succeed to the office of the Mayor for the balance of the unexpired term. The succession of the Mayor Pro Tempore to the office of the Mayor shall create a vacancy in the Council. The procedures for filling this vacancy are found in this charter in Sec. 5.8.

4.7.2.2 In the event that a Councilperson in question does not leave on their own recognizance, a vote shall be had at the next Town Council Meeting and said Councilperson may be removed by the affirmative vote of the majority of Councilmembers.

ARTICLE V NOMINATIONS AND ELECTIONS

~~5.1. Term of Office.~~

~~5.1.1. The Mayor shall be elected from within the Council by a majority of the members of each newly elected Council immediately following each annual municipal election, and shall serve in the capacity of Mayor for one year until the next said election.~~

~~5.1.2. The term of office for each member of the Town Council shall be two years. The Mayor shall be elected from within the Council by a majority of the members of each newly elected Council immediately following each annual municipal election, and shall serve in the capacity of Mayor for one year until the next said election.~~

~~Two (2) Councilpersons shall be elected on even years to fill the vacancies created by the expiration of the terms of Office of the two (2) then-outgoing Councilpersons. Three (3) Councilpersons shall be elected on odd years to fill the vacancies created by the expiration of the terms of Office of the three (3) then-outgoing Councilpersons.~~

~~5.2. Elections.~~

~~5.2.1. Annual municipal elections shall be held on the first Saturday in May at such time and place, within the town, as determined by the majority vote of the Town Council. The Council shall, by ordinance, set the hours during which the polls shall be open, which shall be no less than six hours at each polling place. The Town Clerk shall be responsible for the proper administration and facilitation of municipal elections. In the event of a tie vote for any office, the Town Clerk~~

~~shall determine the winning candidate by lot. The Town Council shall have the power to declare no election in the event that only one candidate is available for each elected position within the town.~~

5.1 Elections

5.1.1. Annual municipal elections shall be held on the first Saturday in May at such time and place, within the Town, as determined by the majority vote of the Board of Elections. The Town Council shall, by ordinance, set the hours during which the polls shall be open, which shall be no less than six (6) hours at each polling place. The Town Clerk shall be responsible for the proper administration and facilitation of municipal elections. In the event of a tie vote for any office, the Town Clerk shall determine the winning candidate by lot. The Town Council Board of Elections shall have the power to declare no election in the event that only one (1) candidate is available for each elected position within the Town.

5.2 Term of Office

5.2.1. The Mayor shall be elected from within the Council by a majority of the members of each newly elected Council immediately following each annual municipal election, and shall serve in the capacity of Mayor for one (1) year until the next said election.

5.2.2. The term of office for each member of the Town Council shall be two (2) years. The Mayor shall be elected from within the Council by a majority of the members of each newly elected Council immediately following each annual municipal election, and shall serve in the capacity of Mayor for one (1) year until the next said election.

5.2.3 Two (2) Councilpersons shall be elected on even years to fill the vacancies created by the expiration of the terms of Office of the two (2) then-outgoing Councilpersons. Three (3) Councilpersons shall be elected on odd years to fill the vacancies created by the expiration of the terms of Office of the three (3) then-outgoing Councilpersons.

5.3. Qualifications for Office.

5.3.1. No person shall be eligible to hold office as Mayor or Councilperson except a person who at the time of filing as a candidate is a citizen of the United States, has attained the age of eighteen years, and has maintained legal residency within the Town boundaries for a minimum of twelve (12) consecutive months immediately preceding the filing of candidacy.

5.3.2 Qualifications for Mayor. In order to be elected for Mayor by fellow Councilpersons, a Councilperson must have served for a minimum of twelve (12) consecutive months as a Councilperson and shall meet all qualifications for office as described in section 5.3.1. In the event that there is not a Councilperson who has served for twelve (12) consecutive months, then the Mayor shall be elected from the present Councilpersons.

5.4. Notice of Candidacy.

5.4.1. In order to be listed on the ballot for election ~~of Mayor or Town Council~~, each candidate shall file with the Town Clerk at least thirty days (30) prior to the date set for the election, a written notice of intention to seek such office which includes a petition bearing the signatures of ten registered voters within the Town of Townsend. If the ~~Town Council~~ Board of Elections determines that the candidate does not meet the qualifications of office, it shall reject the notice of intention to seek office and his or her name shall not appear on the ballot. ~~In making the determination, only those members of the Town Council who are not running for re-election shall be entitled to vote on the question.~~

5.5. Voter Qualifications.

5.5.1. Every person who shall have reached the age of eighteen years, who is a citizen of the United States, and who resides within the ~~town~~ Town limits and/or who can prove ownership ~~is a legal owner~~ of property within the corporate limits of The Town of Townsend shall be entitled to vote at the annual municipal election, special elections and referenda, except as otherwise provided in this Charter and in accordance with Title 15, Chapter 75, §7554 of the Delaware Code.

5.6. Absentee Voting.

5.6.1. The Town Council of The Town of Townsend, may by ordinance, establish a procedure for absentee voting consistent with the provisions of Title 15, Chapter 55 of the Delaware Code.

5.7. Voter Registration.

5.7.1 The Town Council shall by ordinance provide for the registration of voters and may prescribe registration and voting places. Such ordinances shall not alter the qualifications of voters as defined in this Charter nor unduly impair the right to vote in any election.

5.8 Candidate Background Checks

All candidates who successfully file a candidate packet with the Town of Townsend must successfully pass a background check as provided by the Town of Townsend. The successful background check must be received by the Town of Townsend by the Town Council Re-Organization meeting. In the event that a winning candidate fails to successfully pass a background check, they shall create a vacancy in office.

~~5.8.~~ 5.9. Vacancies in Office.

~~5.8.1.~~ 5.9.1. If any vacancy in the office of any council member other than the Mayor shall occur by reason of resignation, death, removal from the ~~town~~ Town, conviction of a felony, malfeasance in office, or otherwise, said vacancy shall be filled for the remainder of the unexpired term at the next annual municipal election until the remainder of that term. If the next annual municipal election will occur more than ninety (90) days after the occurrence of the vacancy, the Town Council, by majority vote including the Mayor, at the next regular meeting, shall appoint a qualified person to fill such

vacancy until the next annual municipal election. If the vacancy occurs within 90 days of the end of the current term of office, such vacancy shall not be filled. If any vacancy shall occur in the office of the Mayor, the procedures for filling said vacancy are found in Sec. 4.6.7 in this Charter.

5.9.2 If within 90 days of the swearing in, a newly sworn in Councilperson resigns or is disqualified; the candidate from the election with the next highest number of votes shall be appointed to fill the remainder of the term.

5.9.3 In the event that there are not enough candidates for the number of Town Council seats available, leaving a vacancy by the time of the Town Council Re-organization meeting in June of each year, the Town Council members whose term is up, creating the vacancy, shall remain in office until such a time when an appointment can be made. Appointments should not be delayed and must be done in an expeditious and time-sensitive manner.

~~5.9.~~ 5.10. Succession of Authority.

~~5.9.1.~~ 5.10.1. In the event that the Mayor is absent or incapable of assuming responsibilities, such responsibility shall be carried out by the following Town officials in the following order: 1) Each of the remaining Council members in order of seniority in years of Council service, 2) Town Manager, 3) Town Clerk.

ARTICLE VI [RESERVED]

ARTICLE VII PERSONNEL

7.1. Town Employees.

7.1.1. The Town Council may provide for the appointment or hiring of such other officers, employees and agents of the ~~town~~ Town, which it may deem proper and necessary, for the proper conduct and management of the ~~town~~ Town. Unless governed by the terms of a written contract, a written personnel policy, a written personnel classification or merit system, or a written grievance or disciplinary procedure duly adopted by the Town Council~~, any such officers, employees and agents of the town~~ Town ~~may be removed at any time, with or without cause, by the Town Council at the pleasure of the Town Council~~.

7.2 Compensation of Town Employees and Council.

7.2.1. The Town Council shall, by ordinance, budget or resolution, fix the amount of any salaries or compensation for the employees, officers and agents of the ~~town~~ Town. No officer, employee or agent of the ~~town~~ Town shall in any form have, take, or receive from the ~~town~~ Town any compensation, in addition to the salary or compensation fixed by the Town Council, except for reimbursement for actual and necessary expenses incurred by them in the performance of their duties, if such reimbursement be authorized and approved by motion, resolution or ~~order of Council~~ as authorized and approved by the Town Manager.

7.2.2. The Town Manager shall cause to be kept a full and complete record of all officers appointed, employees and agents hired by the ~~town~~ Town, containing the names of such officers, employees and agents, the dates of their employment, any salary or compensation to be by them received, the date of the termination of their services, and any other relevant personnel employment information.

7.2.3. The Town Council may receive compensation for services to the Town as may be prescribed by ordinance, effective at the beginning of the fiscal year, following the date of the ordinance.

7.3. Town Manager

7.3.1. Appointment; Qualifications; Compensation.

7.3.1.1. The Town Council shall appoint a Town Manager for an indefinite term and fix his or her compensation subject to confirmation and approval of a majority of all members of Council, including the Mayor. The Town Manager should be appointed on the basis of executive and administrative qualifications. In the performance of his or her duties and the exercise of ~~his or her~~ their powers, the Town Manager shall not be influenced by any matters whatsoever of a political or factional nature. The Town Manager is preferred to ~~need not~~ be a resident of the Town of Townsend or the State of Delaware at the time of ~~his or her~~ their appointment, but may reside outside the Town while in office only with the approval of the Town Council.

7.3.2. Removal.

7.3.2.1. The Town Manager may be removed by the affirmative vote of four ~~(4) members~~ all members of the Town Council, including the Mayor. Before such removal shall become effective, the Council including the Mayor, shall, by majority vote, adopt a preliminary resolution stating the reasons for removal and may suspend the Town Manger from duty without pay and for a period that Council and the Mayor deem ~~deems~~ appropriate.

7.3.2.2. Within five (5) days after a copy of the resolution is delivered to the Town Manager, ~~he or she~~ the Town Manager may file with the Council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Town Manager may file with the Council a written reply not later than five (5) days before the hearing.

7.3.2.3. The Town Council may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of ~~four (4) members~~ all members of Town Council including the Mayor, at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Town Manager, if ~~he or she~~ the Town Manager has not requested a public hearing, or at any time after the public hearing if one has been requested.

7.3.2.4. The Town Manager, if suspended without pay, shall receive compensation for the period of suspension if ~~he or she~~ the Town Manager is not ultimately removed, unless otherwise modified by Contract.

7.3.3. Absence of the Town Manager.

7.3.3.1. In case of the temporary absence or disability of the Town Manager, the Town Manager with the advice and consent of a majority of the Council, including the Mayor, shall designate ~~some qualified person, who may be an elected or appointed official~~ the Town Clerk of the Town of Townsend, or some qualified person who may be elected or appointed, to perform the duties of such office during such absence or disability, and serve as Acting Town Manager.

7.3.3.2. During such temporary absence or disability, the Council may revoke such designation by majority vote, including the Mayor, at any time and appoint another qualified person to serve until the Town Manager shall return or until such disability shall cease. In the case of the permanent absence of a Town Manager, the Council shall by majority vote, including the Mayor, designate a qualified person to serve until a new Town Manager is hired.

7.3.4. Powers and Duties of the Town Manager.

The Town Manager shall be the chief administrative officer of the Town of Townsend. ~~He or she~~ The Town Manager shall be responsible to the Town Council for the proper administration of the affairs of the Town placed in ~~his or her~~ their charge by or under this Charter. The Town Manager shall have the following powers and duties:

7.3.4.1. Personnel. The Town Manager shall have the power to make such appointments and to hire employees at such compensations as the Town Council, by Resolution, when hiring department heads, and shall determine, subject to such rules and regulations as may be adopted by the Council. The Town Manager shall have the power to make appointments and hire employees who are not department heads without Resolution. All employees shall be hired for an indefinite term and may be removed by the Town Manager at any time unless otherwise provided by Resolution of the Town Council. The Town Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by ~~him or her~~ the Town Manager. However, the Town Council shall sit as a Board of Appeal for the protection of Town employees at those times when a majority of the Council, including the Mayor, are agreed that a review of the action of the Town Manager would be in the best interests of the Town of Townsend. An aggrieved employee of the Town shall have the right to petition for a hearing before such Board of Appeal; provided that the petition is received by the Town Council within ten (10) days of receipt of written notice of termination or suspension. The decision of a majority of the Town Council, including the Mayor, shall be final and conclusive.

7.3.4.2. The Town Manager shall direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by this Charter, or by ordinance, resolution or other law.

7.3.4.3. The Town Manager shall attend all Council Meetings and shall have the right to take part in the discussion, but shall not vote.

7.3.4.4. The Town Manager shall see that all laws, ordinances, provisions of this Charter and acts of the Town Council, subject to enforcement by ~~him~~ them or by officers subject to ~~his~~ their direction and supervision, are faithfully executed.

7.3.4.5. The Town Manager shall prepare and submit such reports or special assignments as may be required by the Town Council. ~~He or she~~ The Town Manager shall perform such other duties as may be prescribed by this Charter or required of ~~him or her~~ them by Ordinance or Resolution of the Town Council.

7.3.4.6. The Town Manager shall have charge and supervision of the streets, gutters, curbs, sidewalks, parks and other administrative affairs of the Town and all work relating thereto.

7.3.4.7. The Town Manager shall execute on behalf of the Town, when authorized by the Town Council, all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed.

7.4. Town Clerk.

7.4.1. The Town Clerk shall be appointed by the Town Council. The Town Clerk shall have the power to certify ~~town~~ Town documents including, but not limited to, the ~~town~~ Town map, ordinances, resolutions, regulations, amendments, contracts, planning documents, rules and by-laws. The Town Clerk shall have charge and custody of the Town Seal. The Town Clerk shall have charge and custody of books, journals, records, papers and other effects of the ~~town~~ Town and shall keep the same in a safe and secure place. It shall be the duty of the Town Clerk to ensure proper administration and facilitation of municipal elections. The Clerk shall give notice of Council meetings to its members and the public, record all the proceedings of Council and keep a correct journal of the same in a book or books, to be provided for that purpose and also the papers relative and belonging to The Town of Townsend, all of which are to be carefully preserved and delivered to the Clerk's successor in office.

7.5. Town Attorney.

7.5.1. The Town Attorney shall be appointed by the Town Council. The Town Attorney shall be an officer of the ~~town~~ Town and shall be a member of the Bar of the State of Delaware. It shall be the duty of the Town Attorney to give legal advice to the Town Council, other officers of the ~~town~~ Town and to all ~~town~~ Town departments, including the police department, ~~town~~ Town offices and agencies. ~~He~~ The Town Attorney shall represent the ~~town~~ Town in all legal proceeding and shall perform such other legal services as may be required of said Attorney by the Town Council, this Charter, by law or by ordinance. The Town Council may procure such additional legal services as it may deem to be required.

7.6. Town Financial Officer.

7.6.1. The Town Financial Officer shall be appointed by the Town Council. The financial powers of the ~~town~~ Town, except as otherwise provided by this Charter, shall be exercised by the Financial Officer under the direct supervision of the Council.

7.6.2. Under the supervision of the Council, the Financial Officer shall have the authority and shall be required to:

7.6.2.1. Supervise and be responsible for the disbursement of all ~~town~~ Town monies and have control over all expenditures to assure that budget appropriations are not exceeded.

7.6.2.2. Maintain a general accounting system for the ~~town~~ Town in such form as the Council may require, not contrary to State Law.

7.6.2.3. Shall keep a full and complete record of all transactions in the Town.

7.6.2.4. Submit at the end of each fiscal year, or at such other times as the Council may require, a complete financial report to the Council.

7.6.2.5. Collect all taxes, special assessments, fees and other revenues of the ~~town~~ Town, and all other revenues (including utility revenues) for whose collection the ~~town~~ Town is responsible and receive any funds receivable by the ~~town~~ Town. The Financial Officer shall have the power to delegate the ability to collect the aforementioned revenue sources upon a simple majority approval of the Town Council, including the Mayor.

7.6.2.6. Assist the Town Council in making an annual budget no later than thirty (30) days after the beginning of each fiscal year.

7.7. Town Engineer.

7.7.1. The Town Engineer shall be appointed by the Town Council. ~~He or she~~ The Town Engineer shall be an officer of the ~~town~~ Town and be professionally licensed within the State of Delaware. The duties of the Town Engineer shall include, but not be limited to, representing the ~~town~~ Town on all engineering matters, reviewing all plans and building permit applications for construction that occurs within the ~~town~~ Town limits, serving as the design engineer for all capital projects, and providing all construction inspection services for the ~~town~~ Town. The Town Council may procure any additional engineering services as they see fit.

7.8. Police Force.

~~7.8.1. The Town Council may appoint a police force consisting of such person or persons as the Town Council deems wise and advisable. The Town Council shall, from time to time, adopt rules and regulations as may be necessary for the organization, government and control of the police force. The members of the force shall be subject to the direction and supervision of a police officer of the Town who shall have the title of Chief of Police. The Town Council also may choose~~

~~to subcontract all or a portion of the staffing of the police force for the Town of Townsend to another police force in its jurisdiction.~~

~~7.8.2. The police force shall preserve peace and order and shall compel obedience within the town limits to the ordinances of the town and the laws of the State; and they shall have such other duties, as the Town Council shall from time to time prescribe. Each member of the police force shall be vested with all powers and authority of a constable of New Castle County within the town limits, and in the case of the pursuit of an offender, his or her power and authority shall extend to all parts of the State of Delaware. The Chief of Police or another designated officer will be present at all Town Council meetings, to provide a report of the Town's criminal activities or lack thereof, and to keep the peace.~~

~~7.8.3. The Chief of Police shall report directly to the Town Council unless, upon majority vote, the Town Council shall assign him or her to report to the Town Manager.~~

7.8.1 Appointment, Removal. The Town Council may, in its sole discretion, appoint a Chief of Police and such subordinate police officers as it deems reasonable and appropriate for the good of the Town. When appointed by the Town Council, the Chief of Police may serve a term as determined by Town Council. Subordinate members of the police force shall be selected by the Chief of Police and be appointed by the Town Council for an indefinite term. The Chief of Police may be removed from office at any time in accordance with the provisions of 11 Del. Laws, c. 93 ("Police Chief Due Process") and any subordinate police officer may be terminated at any time in accordance with 11 Del. Laws, c. 92 ("Law Enforcement Officers Bill of Rights"), as those statues may from time-to-time hereafter be amended, or in accordance with any future corresponding provision of law.

7.8.2 Certification. No person shall serve as the Chief of Police or as a police officer of the Town unless that person shall have complied with the provisions of 11 Del. Laws, c. 84 ("Delaware Police Training Program") as it may from time-to-time hereafter be amended or any future corresponding provisions of law.

7.8.3 Power and Duties. Each member of the police force shall have all the police powers and authority of a State Peace Officer and shall be conservators of the peace throughout the Town of Townsend. The police force shall preserve peace and order and shall compel obedience within the Town limits to the ordinances of the Town and the laws of the State of Delaware. It shall be the duty of the police force enforce all state and municipal laws, and upon view of the above or upon view of any violation of any ordinance of the Town relating to the peace and good order thereof, the police force shall have the right and power to arrest without warrant. The police force shall have such other duties as the Town Council shall, from time to time prescribe. In the case of a pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of the Town of Townsend to any part of the State of Delaware. Operational control of the daily routine of the Police Department shall be the responsibility of the Chief of Police. The authority of the Chief of Police

shall be subordinate and answerable to the Town Council, unless, by resolution, Town Council shall assign the Chief of Police to report to the Town Manager.

ARTICLE VIII FINANCIAL POWERS AND PROCEDURES

8.1. Fiscal Year.

8.1.1. The fiscal year of The Town of Townsend shall begin on the first day of July of each year and shall end on the last day of June of the following year. Such fiscal year shall also constitute the budget and accounting year, except as otherwise provided for herein.

8.2. Budget.

8.2.1. A formal budget shall be prepared and submitted to Town Council for purposes of listing revenues and expenditures of the ~~town~~ Town. It shall be submitted by the Town Council, assisted by the financial officer no later than thirty (30) days after the beginning of each fiscal year. In the event of a lack of compromise within the Town Council regarding the immediate annual budget, the Town Council shall have the authority to pass enabling legislation to extend the previous year's budget until a compromise or settlement can be reached by the members of the Town Council.

8.3. Assessment of Taxes.

8.3.1. The Town Council shall use the assessment by the New Castle County Board of Assessment for all property within the corporate limits of the ~~town~~ Town in lieu of making its own independent valuation and assessment of such property. The assessed values established by New Castle County shall be conclusive for purposes of levying ~~town~~ Town taxes, and Town Council shall have no authority to hear appeals regarding the same.

8.4. Power to Raise Revenue.

8.4.1. The Town Council shall have the power to levy and collect taxes on real property and of ownership within the limits of the ~~town~~ Town, except that which is not assessable and taxable by virtue of any law of the State of Delaware, which shall not be more than the sum determined by applying The Town of Townsend's tax rate to the New Castle County Assessments appearing on the Assessor's duplicate, as hereinbefore provided, in any one year clear of all delinquencies and expenses of collection, without a referendum vote as hereinafter provided. The Council shall have the right to grant or refuse, and to charge fees for licenses, on any businesses of any description within the limits of the ~~town~~ Town, and to control their use of any property within the ~~town~~ Town. The Council shall also have the power to levy and collect franchise fees.

8.4.2. The Town Council shall have the power to levy and collect taxes on the transfer of ownership of any real property within the limits of the ~~town~~ Town, except that which is not taxable by virtue of any law of the State of Delaware.

8.4.3. The Town Council shall have the power by ordinances to allow discounts for early payment of taxes and for property owners aged 65 or older and to impose reasonable penalties and forfeitures for tax delinquencies. Nothing in this Charter shall be interpreted as giving the Councilpersons the power to exempt from taxation any property, except property owned by the ~~town~~ Town, County of New Castle, State of Delaware, or the United States.

8.4.4 The Town Council shall have the power to fix the rates for general utility services operated by the ~~town~~ Town and to collect and utilized revenues from such utility services for the benefit the ~~town~~ Town.

8.5. Remedies for Collection of Taxes, Assessments and Other Charges.

8.5.1. A list containing the names of the taxables and, opposite the name of each, the amount of his real and personal property assessment, and the total amount of the tax, shall be prepared as soon as practicable after the beginning of the tax year. All taxes shall be paid to the Town Financial Officer, subject to such discounts and penalties and rules as the Town Council may direct.

8.5.2. It shall be the duty of the Financial Officer to proceed forthwith to collect all taxes in the calendar year in which assessed, as well as all delinquent taxes. In the collection of said taxes, the Financial Officer shall have all the powers conferred upon or vested in the Department of Finance for New Castle County, including but not limited to those set forth in Chapter 87, Title 9 of the Delaware Code, particularly subchapter II relating to the Monition method of sale.

8.5.3. The provisions of Chapter 29, Title 25 of the Delaware Code with references to liens of taxes and other charges shall be deemed and held to apply to all taxes and other charges laid and imposed under the provisions of this Charter and the Code of Ordinances, except that any such lien imposed shall continue for ten (10) years from the date such lien commences.

8.6. Special Assessments.

8.6.1. The Town Council is empowered to levy a special assessment against any or all real property situated within the corporate limits of the ~~town~~ Town, when determined by the Council to provide a necessary public work improvement or municipal service. Such assessments shall be duly collected, the proceeds of which shall be applied for the payments of the cost of such work, improvement, or service, provided, however, that if such assessment shall apply to all properties within the ~~town~~ Town, it shall be approved by majority vote of the ~~town~~ Town 's voters in a special election. If such assessment shall apply to only a portion of property situated within the corporate limits of the Town, the assessment shall be approved by a majority of the Town voters in the affected area in a special election.

8.7. Borrowing Powers.

8.7.1. Short-Term Borrowing, Voter Approval Not Required.

Whenever the needs of the ~~town~~ Town shall require more money than is, at the time, in the ~~town~~ Town treasury from current receipts, the Council shall be authorized and empowered to anticipate current revenue by borrowing such amounts as are needed. Provided, however, the amount of such indebtedness shall not at any time exceed one (1%) percent of the assessed valuation of the assessable and taxable real property within the limits of the ~~town~~ Town, or shall not exceed Two Hundred Thousand Dollars ($200,000.00), whichever is greater. To exercise the power aforesaid the Council shall adopt a resolution to that effect, which resolution shall be by roll call and require the affirmative vote of at least three (3) of the members of the Council. The indebtedness created under this provision shall be evidenced by notes of the ~~town~~ Town, and the full faith and credit of the ~~town~~ Town shall be deemed to be pledged thereby. Such short-term debt shall not be considered as part of the bonded debt of the ~~town~~ Town when limitations under indebtedness, as set forth elsewhere in this Charter, are computed.

8.7.2. Long-Term Borrowing, Voter Approval Required.

In addition to other borrowing powers granted to the Town under this Charter or by State law, the Town Council shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or other security or securities as the Town Council shall elect, for the payment of principal thereof and interest due thereon.

8.7.3. Proper Municipal Purpose.

By way of illustration and not in limitation, "any proper municipal purpose" includes, but is not limited to: refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein; erecting, extending, enlarging, maintaining or repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of water, sewerage or drainage system, or any of them, and the condemning or purchasing of any land, easements, and rights-of-way which may be required therefore; constructing, paving, laying out, a widening, extending, repairing and maintaining of curbing and gutters, including storm sewers along the same and the condemning or purchasing of lands, easements or rights-of-way which may be required therefore; constructing, laying out, widening, extending, repairing and maintaining piers, bulkheads, cross walks, embankments, and the condemning or purchasing of any lands, easements, or rights-of-way which may be required therefore; defraying the costs to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter; and paying all expenses deemed necessary by the Town Council for the issuance of said bonds or other evidence of indebtedness, including bond discount and legal expenses of bond council.

8.7.4. Exempt from Taxation.

All bonds or other kinds or forms of evidence or evidences of indebtedness issued by the Town pursuant to the provisions of this Section, and the interest thereon, shall be exempt from all State, County, or Municipal taxes.

8.7.5. Limit of Aggregate Long-Term Indebtedness.

In no event shall the indebtedness of the Town of Townsend, authorized by this Section, at any one time exceed, in the aggregate, five percent (5%) of the appraised value of all real property within the corporate limits of the Town and subject to assessment for the purpose of levying annual taxes as provided in this Charter.

8.8. Annual Audit.

8.8.1. The financial books and accounts of the ~~town~~ Town shall be audited annually. The Town Council shall have the authority to hire, as an agent of the Town, an auditing firm to perform said audit, due annually by the end of the current calendar year.

ARTICLE IX GENERAL PROVISIONS

9.1. Eminent Domain.

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

9.2. Indemnification.

9.2.1. The ~~town~~ Town shall indemnify, from the general funds of the ~~town~~ Town 's treasury, to the extent not otherwise covered by appropriate insurance, any person who is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of The Town of Townsend itself) by reason of the fact that he or she is or was a member of the Town Council, Mayor or other duly elected or appointed ~~town~~ Town official or employee of The Town of Townsend, or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonable believed to be in or not opposed to the best interest of the ~~town~~ Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonable believed to be in or not opposed to the best interest of The Town of Townsend and with respect to any criminal action or proceeding had reasonable cause to believe that his or her conduct was unlawful; provided, however, that in the event of a monetary

settlement, the Town Council shall first approve the amount and terms of the settlement before the right to indemnification shall vest.

~~9.2.2. Indemnification as provided in this section shall be made by the town~~ Town ~~only as authorized in the specific case upon a determination that indemnification of the members of the Town Council, Mayor, and/or employees is proper in the circumstances because he or she met the applicable standards of the conduct set forth above. Such determination shall be made: By a majority vote of a quorum of the Town Council consisting of Council members who are not parties to such action, suit or proceeding, or if such quorum is not obtained, by independent legal council in a written opinion.~~

9.3. Limitation on Liability.

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

9.4. Compendium.

9.4.1. It shall be the duty of the Town Clerk to compile and reproduce the minutes of official meetings as well as ordinances, regulations, orders, rules or other decisions adopted by ~~town~~ Town governmental bodies. The Town shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. Copies of such documents shall be made available to private person at a reasonable cost. At least two copies of the Charter, which shall have incorporated within it all amendments enacted by the General Assembly, shall be kept at the ~~town~~ Town office. Such copies may be typed, written, photographic processed or a combination of both. The Town Clerk shall make such further copies of the Charter, from time to time, as may be necessary. Copies of the Town Charter shall be available for the perusal of the ~~town~~ Town citizens.

9.5. Separability.

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

ARTICLE X TRANSITIONAL PROVISIONS

10.1. Former Government in Force.

10.1.1. All ordinances, resolutions, orders, rules, contracts or regulations in force in The Town of Townsend at the time when this Charter takes effect, regardless of the authority under which originally enacted, shall continue in full force and effect until the Council otherwise provides by ordinance, except to the extent that any such ordinance, resolution, order, rule or regulation may be in contravention of this Charter.

10.2. Continuance in Office.

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

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