

Clayton

Article I: Incorporation

Section 1.1 - Body Corporate

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

Section 1.2 - Boundaries

- (a) The boundaries of the Town of Clayton are hereby established and declared to be the same boundaries and limits that have been heretofore determined and as are designated and delineated on a plot of the Town of Clayton of record in the Office of the Recorder of Deeds, at Dover in Deed Book 4, Volume 7, Page 88, and such other premises and real property as the Town has from time to time acquired.
- (b) The Council of the Town of Clayton may, at any time hereafter, cause a survey and plot to be made of the said boundaries and the said plot, when made and approved by the Council, may be recorded in the Office of the Recorder of Deeds, at Dover, State of Delaware, and the same, shall constitute the boundaries of the Town of Clayton.

Section 1.3 - Annexation

If and when two-thirds (2/3) of the property owners in unincorporated territory contiguous to the Town of Clayton shall sign a petition seeking to have the area in which said property owners reside annexed to the Town of Clayton and submit the petition together with a survey of the area proposed for annexation to the Town of Clayton, the said Council may submit the question of annexation or any question pertaining to annexation to the voters of the Town of Clayton and the 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 such manner by such persons and with such notice as the Council of the Town of Clayton shall determine by resolution.

Article II: Powers Of Town

2.1 - Powers of Town

- (a) The Council of the Town of Clayton shall have all the powers granted to municipal corporations and to towns by the Constitution and general laws of the State of Delaware, together with all the implied powers necessary to carry into execution all the powers granted. The Town Council of Clayton shall continue to enjoy all powers which have been granted to it by special acts of the General Assembly of the State of Delaware, except insofar as they may be repealed by the enactment of this Charter. The Council members of Clayton, as a body politic and corporate, shall succeed to, own or possess all property whether real, personal, or mixed, and all the rights, privileges, franchises, powers and immunities now belonging to, possessed by, or enjoyed by the former corporation known as "The Town of Clayton".
- (b) The Town of Clayton may have and use a corporate seal; may sue and be sued; may acquire property within or without its corporate limits by purchase, gift, devise, lease or condemnation, for the purpose of providing sites for public buildings, parks, sewer system, sewage treatment plant, water system, electric system, water plant, gas system, or other municipal purposes, and may sell, lease, mortgage, hold, manage and control such property or utility as its interest may require. And, except as prohibited by the Constitution of the State of Delaware or restricted by this Charter, the Council of Clayton shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.
- (c) The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof; it is intended that the Council of Clayton shall have and may exercise all

powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate all powers of the Town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in a manner provided by ordinance or resolution of the Council.

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

2.2 - Intergovernmental Relations

The Town of Clayton 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, of the United States or any agency thereof.

Article III: Structure Of Government

3.1 - Organization

The government of the Town of Clayton and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in five (5) Councilmen (two of whom shall be by them chosen as President and Vice-President). (68 Del. Laws, c. 282, 6/30/92)

3.2 - Qualifications of Council

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

3.3 - Term of Office

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

3.4 - Council Prohibitions

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

3.5 - Vacancies and Forfeiture of Office

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

exceptional circumstance as the President determines is appropriate, on a case-by-case basis, to excuse the Council member.

- (b) The Council, by the majority of vote of all its members shall appoint a qualified person to fill the vacancy. A vacancy shall be announced at a regular Council meeting and a vote on a person to fill the vacancy shall not be held before the next following regular Council meeting. Despite the quorum provisions hereof, if at any time, the membership of the Council is reduced to less than three (3) the remaining members may, by majority action, appoint additional members to raise the membership to five (5). (77 Del. Laws, c. 274, 5/22/10)

3.6 - Judge of Qualifications of Members

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

3.7 - Compensation

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

3.8 - Meetings of Council

- (a) The members of the Town Council shall meet for the purpose of organization on the second Monday evening in May following their election, and shall organize by the election of a President, a Vice-President, a Secretary, and a Treasurer and such other officers as shall be found necessary. All officers of the Town of Clayton shall be members of Council. The Council shall meet regularly at least once a month thereafter. No member of Council shall hold more than one (1) elective office during any term of office. (69 Del. Laws, c. 282, 6/30/92)
- (b) Such regular meeting shall be held on the second Monday evening of each month; additional meetings may be held as provided by the Town ordinance, or whenever the President may deem it expedient. All meetings shall be open to attendance by the public, provided, however, the Council may recess for the purpose of discussing in an executive session limited to its own membership any question which would tend to defame or prejudice the character or reputation of any person, or would tend to jeopardize the position of the Town in any action under consideration, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

3.9 - Terms of Office

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

3.10 - Council President

- (a) The President shall be the executive of the Town of Clayton. The President shall also be known as the Mayor of the Town of Clayton. The President shall serve as the head of the Town government for all ceremonial purposes and for purposes of military law. He/she shall preside at meetings of the Council, and shall have vote therein. He/she shall execute on behalf of the Town, when authorized by the Council, all agreements, contracts, bonds, deeds,

- leases, and other documents necessary to be executed. He/she shall appoint all chairpersons, other non-elected officers, town solicitor and such other persons as he may deem expedient and necessary, and all committees subject to Council confirmation. He/she shall sign all warrants authorized by the Council and drawn on the Treasurer for the payment of money. He/she shall issue and sign all licenses for every exhibition with the Town of Clayton for which a license thereof is, or may be required. He/she shall have all and every power conferred and perform all duties imposed upon him/her by this Charter and the ordinances of the Town of Clayton.
- (b) The President shall have the same right as other officers and Council members to vote on all matters and may at any time appoint another officer or Council member to preside if he desires to make a motion, move the adoption of a resolution, record either, or debate any question from the floor, and may thereafter immediately issue his duties as presiding officer. For purposes of establishing a majority vote, the President shall be counted as a member of Council. (68 **Del. Laws**, c. 282, 6/30/92)

3.11 - Council Vice-President

- (a) The Vice-President shall also be known as the Vice-Mayor of the Town of Clayton. If the President shall be incapacitated from acting by reason of absence, or for any other cause whatsoever, then all powers and duties conferred and imposed upon him by this Charter or any other law, or any resolution or ordinance now or hereafter adopted or enacted by the Town Council, shall be exercised and performed by the Vice-President as acting President and Mayor for the period of such incapacity.
- (b) The Vice President shall have the same right as other officers and Council members to vote on all matters. (68 **Del. Laws**, c. 282, 6/30/98)

3.12 - Council Secretary

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

3.13 - Council Treasurer

- (a) Before entering upon the duties of his/her office he/she shall be sworn or affirmed, by the President of the Town Council, or the person performing the duties of President of Council for the time being, to perform the duties of his/her office honestly, faithfully, and diligently. He/she shall be custodian of all funds of the Town of Clayton and he/she shall deposit them daily in banking institutions as designated by the Council. The Treasurer shall be responsible to insure that all funds of the Town of Clayton are in insured accounts.
- (b) He/she shall not pay out any money except as authorized by the President and Council; shall keep a true, accurate and detailed account of all monies received and of all monies paid out by him/her; shall preserve records for monies paid by him/her; and his/her books and accounts shall at all times be open to inspection by the President or the members of the Town Council; he/she shall, at each regular meeting of Council submit a report, in writing, of all receipts and disbursements, which shall be entered in the minutes of said meeting. The Treasurer shall be bonded by the Town with sufficient surety to be approved by Council in a penal sum equal to one hundred fifty (150%) percent of the amount most likely to come within his/her hands conditioned for the faithful discharge of the duties of his/her office. The bond shall further provide for the payment to his/her successor in office of all sums of money remaining in his/her hands upon settlement of his/her accounts, to which said bond and warrant thereto shall be annexed a warrant of attorney for the confession of judgment for said penalty. (74 **Del. Laws**, c. 232, 6/3/04)

3.14 - Rules of Procedure

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

3.15 - Quorum and Majority Requirements

A majority of the members elected to the Council shall constitute a quorum to do business but a smaller number may adjourn 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. No ordinance shall be valid unless it shall have the affirmative vote of a majority of the members elected to Council. Resolutions, orders and motions shall be valid upon the affirmative vote of a majority of the members of the Council present. No member shall be excused from voting on ordinances, resolutions, orders or motions, except where a member of Council has a conflict of interest, in which event, said member shall disqualify himself from voting. The member involved shall be the sole judge of whether or not there is such conflict of interest.

3.15 - Election

An annual election shall occur each year to be held on the last Tuesday in April in the Town of Clayton for the election of Council members. The hours for balloting shall be between the hours of 2:00 p.m. until 7:00 p.m. to be held in such places as Council of the Town of Clayton deem appropriate. (71 Del. Laws, c. 124, 6/30/97)

Article IV: Powers Of Council**4.1 - General Powers**

- (a) The Council shall constitute the legislative body of the Town of Clayton and together shall be designated as the Town Council.
- (b) The Council shall have power to adopt ordinances relating to the health of the population of the Town, or to prevent the introduction or spread of infectious or contagious diseases or nuisances affecting the Town, which power shall extend to the area inside the Town limits and within one (1) mile from said limits. The Council may also pass ordinances to ascertain and fix boundaries of streets, squares, lanes and alleys, or repair and amend the same, and provide for the paving thereof, or to close, alter, extend, or widen any street, square, lane, or alley, or open and lay out new ones subject to the provisions in that behalf hereinafter contained; to regulate the ascent and descent of all streets, lanes and alleys; to fix the building lines upon the same; to direct the paving of footways and to prescribe the width thereof; to direct the laying out of gutters and to prescribe the depth thereof; to prescribe the extent of steps, porches, cellar doors, and other inlets to yards and buildings. (77 Del. Laws, c. 274, 5/22/10)
- (c) The Council shall have power to provide police protection and the lighting of streets at the expense of the Town, and generally to prescribe and regulate the use of the streets, lanes, and alleys of the Town and to have and exercise control over the same; subject to the provisions in that behalf hereinafter contained, and to the general supervision, and control of the Delaware General Assembly.
- (d) The Council shall have power to provide for the regulation of auctions and auctioneers, also to regulate public amusements, to fix and declare and regulate the width of party walls, to provide for the safety of the citizens and for that purpose may prescribe the heights, thickness of walls and materials of buildings and the mode of erecting the same within said Town; and for providing for and securing the safety of the occupants thereof, and make provisions for the enforcement of such regulations.
- (e) The Council may regulate by ordinance or otherwise the sale of goods, wares and merchandise on the streets and sidewalks within the Town of Clayton, and fix the license fee thereof and the penalty for not paying said fee or the breach of any other provisions of such ordinance or regulation and in all other respects regulate the markets within the said Town of

- Clayton. The Council shall have the power to provide for the measuring or weighing of coal, lime, grain, oil, electricity or other matter sold in the said Town and to regulate the storage of gunpowder or any other dangerous substance.
- (f) They shall have power to lay and collect fines on the owners of any horse, cow, dog, or other animal which 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 matters and things for the well-being of the said Town, which shall not be in contravention of any existing laws of this State or the Constitution thereof.
 - (g) The Council shall have power to require all persons owning or keeping any male or female dog or dogs within the limits of the said Town to have the same registered annually and collect a fee from such keeper, owner or owners for such registration, and shall have power to fix the time and manner of registering, the amount of the annual fee thereof, and the penalty for not registering by ordinance.
 - (h) The said Council shall have power, also by ordinance, to appoint a Town surveyor to make a plot or map, showing the ascent and descent of all streets, lanes and alleys, the building lines upon the same, and generally to do and perform all such matters and things as they may deem necessary for carrying into effect the provisions in this Section contained.
 - (i) The Council shall have power, by ordinance or regulation, to trim or remove or cause the owners thereof to trim or remove any and all trees, bushes, shrubbery, weeds or other vegetation, garbage, debris, or other offensive products wherever situated in the said Town, which Council shall deem to constitute a public nuisance or menace to the public welfare, safety or traffic.
 - (j) The Council shall have the power to invest in securities of the United States, and/or in insured savings accounts, funds of the Town not required for immediate use by the Town.
 - (k) The Council shall not have power to exempt any individual from the operation of any general ordinance or municipal regulation, except that Council shall have the power to exempt property under any Planning and Zoning Ordinance.
 - (1) The Council shall have all other powers requisite to and appropriate for the government of the Town of Clayton; its peace and order, its sanitation and beauty, and for the health, safety, convenience, comfort and well-being of its population, and for the protection and preservation of public and private property. Nothing in this Charter shall be construed as exempting any individual or agency from the operation of this section.

4.2 - Special Provisions

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

- (a) May hold and acquire by gift, negotiation and purchase, devise or lease, property, both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to, providing sites for constructing, improving, extending, altering, or demolishing:
 - (1) public buildings;
 - (2) parks;
 - (3) streets, squares, lanes, alleys. and sidewalks; and
 - (4) recreational facilities for the proper furnishing of adequate municipal services to the citizens of the Town.
- (b) May sell, grant, alien, lease, mortgage. manage, hold and control such property as the interests of the Town may require except as prohibited by the Constitution of the State of Delaware, or as restricted by this Charter.
- (c) May pay for the acquisition, construction, improvement, extension, alteration, or demolition of any municipal or public property, real, personal, or mixed, from the general funds of the Town and/or from the proceeds of any grant or loan made to the Town by any agency of the United States or of the State of Delaware, where the Town is lawfully empowered to obtain such grant

- or loan and where the proceeds of the grant or loan are for purposes lawfully authorized by this Charter or by the laws of the State of Delaware.
- (d) May enter into such contracts and agreements as are deemed necessary or in the best interests of the Town, provided the purposes of such contracts are otherwise lawful and authorized by this Charter, or the laws of the State of Delaware.
 - (e) May pass ordinances and rules for the good government and good order of the Town and for all matters relating to the general health, safety, morals, peace, and welfare of the Town. By way of example and not in limitation, the Town shall have authority to adopt ordinances:
 - (1) for the lighting and improvement of streets;
 - (2) for the paving or other improving of sidewalks;
 - (3) for the planting and protection of ornamental trees;
 - (4) to define, prevent, and abate nuisances;
 - (5) to define, investigate, prevent, abate, and remove fire and explosive hazards;
 - (6) to construct, improve, extend, and maintain water mains, fire hydrants and other proper instruments for the prevention and combating of conflagrations;
 - (7) to regulate and control pedestrian, automobile and animal drawn traffic over the streets, squares, lanes, alleys, sidewalks, and other public places in the Town (including the parking and non-parking of vehicles in the Town); provided, however, that such ordinances shall not conflict with any laws of the State of Delaware;
 - (8) to prevent, suppress, and regulate bonfires, the firing of firearms, air or spring guns, and the setting off or exploding of firecrackers, fireworks, torpedoes, or any other explosives;
 - (9) to prevent or regulate the keeping of animals within the Town and to prohibit the running-at-large of such animals;
 - (10) to prohibit gaming and fraudulent devices;
 - (11) to regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements, and games;
 - (12) to require the removal of ice, snow, dirt or other foreign substances from sidewalks and gutters by owners or abutting owners;
 - (13) to prevent vice, drunkenness, and immorality;
 - (14) to provide for or regulate the numbering of houses and lots on the streets of the Town and the naming of public streets, alleys, and avenues;
 - (15) to exercise all powers and authorities vested in the Town by virtue of Chapter 3, Title 22 of the Delaware Code regarding the zoning and subdivision of lands as the same may, from time to time hereafter be amended;
 - (16) to define, abate, demolish, and remove dangerous buildings and other dangerous structures in the Town, including the power to condemn and cause to be torn down and removed any such structure which, upon inspection, is determined to be a fire hazard or otherwise be unsafe; provided however, that any such ordinance shall provide procedures for notice and opportunity to be heard and to correct the hazardous condition by the affected property owner and/or lienholders;
 - (17) to regulate solicitors, peddlers, traveling salesmen, hucksters, and hawkers;
 - (18) to license any responsible person, firm, association or corporation for such period of time and upon such terms, restrictions, stipulations, and conditions, and for such considerations as the Town Council shall deem in the best interest of the municipality to use the present and future streets, alleys, squares, parks, sidewalks and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph or television from, through, or into the Town; provided however, that such ordinances shall be subordinate to any appropriate State or Federal statute, and to any appropriate rule or regulation adopted by a State or Federal agency acting pursuant to statute.
 - (f) May make, adopt and establish all such ordinances, regulations, rules, and by-laws not contrary to the laws of this State and the United States as the Town Council may deem

necessary to carry into effect any of the provisions of this Charter or any other laws of the State relating generally to municipal corporations or which they may deem proper and necessary for the order, protection and good government of the Town; the protection and preservation of persons and property; and of the public health, safety, and welfare of the Town and its inhabitants.

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

4.3 - Ordinance Procedure

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

4.3.1 - Procedure for Enacting Ordinances

Every ordinance shall be introduced in writing. No ordinance shall be passed unless it shall have the concurrence 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 to the taking of the vote thereon. All ordinances passed after the effective date of this Charter shall be copied into the records of the Council and an index of such ordinances shall be kept by the Secretary.

4.3.2 - Codes of Technical Regulations

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

4.4 - Power to Raise Revenue

- (a) The Council shall have the power to levy and collect taxes on real property within the limits of the Town, except that which is not assessable and taxable by virtue of any law of the State of Delaware. The Council shall have the right to grant or refuse, and to charge fees for licenses, or permits for businesses of any description carried on within the limits of the Town as well as for transient businesses and shows except as otherwise provided herein. The Council shall also have the power to levy and collect franchise taxes and to impose sewer rentals and water rentals. (77 Del. Laws, c. 274, 5/22/10)
- (b) The Council shall have the power by ordinance, to impose reasonable penalties and forfeitures for tax delinquencies, and to review and determine proper and appropriate properties to be exempt from taxation, provided, however, that no such exemption shall be in favor of a free enterprise profit making organization unless it shall come within the terms of the exemption for any established firms as hereinbefore provided. (77 Del. Laws, c. 274, 5/22/10)
- (c) The Council shall have the power to fix the rates for general utility services operated by the Town and to collect and utilize revenues from such utility services for the benefit of the Town.
- (d) Notwithstanding any statute to the contrary, the Town of Clayton shall have the power by ordinance to impose and collect a tax, to be paid by the transferor or transferee as determined by Council, upon the transfer of real property within the Town not to exceed one and one half per cent (1 1/2%) of the value of the real property as represented by the document transferring the property. The provisions of Section 5401 and Section 5403 of Chapter 54, Title 30 of the Delaware Code shall apply with respect to any realty transfer tax imposed by the Town of Clayton pursuant to the authority granted herein. Council of the Town of Clayton may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the authority conferred herein. If the taxing power and authority granted herein shall be exercised by way of a stamp affixed to a document, the Recorder of Deeds in and for Kent County shall not receive for record documents subject to said tax unless stamps provided by the Town of Clayton are affixed thereto showing payment of the tax. (67 Del. Laws, c. 80, 7/7/79; 77 Del. Laws, c. 274, 5/22/10)

4.5 - The Town May Engage in Business

- (a) The Town of Clayton shall have the right to engage in any business or enterprise in which a person, firm or corporation might engage by virtue of a franchise, and shall have the right and power to acquire, own and maintain, within the corporate limits of such Town, all real estate for municipal purposes for site and right-of-ways for public utility and general welfare purposes and for the location, erection and maintenance thereon of municipal plants and public facilities.
- (b) The Town of Clayton shall have the exclusive right to grant franchises within the Town boundaries.
- (c) In any case where the Council may deem it to be to the best interests of the people of the Town of Clayton to acquire the properties of any privately owned utility, the Town of Clayton shall respect the franchise rights of the owners and shall in all respects adhere to the general laws of the State of Delaware insofar as they relate to the purpose of utility properties by municipalities.
- (d) The Town may, in its discretion, distribute water throughout all that territory included within the Town boundaries and also any contiguous territory within ten (10) miles of the Town limits. The Council shall determine the person or persons, firm or firms, corporation or corporations, to which the Town shall distribute water throughout said territory; shall fix the rates therefor, shall regulate the use of said water, and shall supply the same upon such terms and conditions as may be agreed upon by the council and said person or persons, firm or firms, corporation or corporations. The Town shall have and exercise all the powers and authority necessary to the accomplishment of said distribution of water throughout said territory as it now has and possess in the installation, operation and maintenance of its water system in the Town and in the distribution by it of water within the Town limits, including the authority and power to acquire by purchase or condemnation such land, and real and personal property as hereinafter provided in case of streets.

4.6 - Borrowing for Current Expenses

- (a) Whenever the needs of the Town shall require more money than is, at the time, in the 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 and one-half (1 1/2%) percent of the assessed valuation of the assessable and taxable real property within the limits of the Town.
- (b) 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, and the full faith and credit of the 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 when limitations under indebtedness, as set forth elsewhere in this Charter, are computed. (74 Del. Laws, c. 232, 6/30/97; 77 Del. Laws, c. 274, 5/22/10)

4.7 - Power to Incur Bonded Indebtedness**4.7.1 - Power to Borrow Money**

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

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

If revenue bonds are issued, each such bond shall recite in substance that said bond, including interest thereon, is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the Town of Clayton within the meaning of the bonded indebtedness limitation; provided however, that in the event of some

emergency, the Town of Clayton may temporarily borrow, advance or loan such amount as is necessary to meet current interest on outstanding bonds, such advance or loan to be repaid to the Town of Clayton out of revenue subsequently received from the undertaking. If revenue bonds are issued the Council shall prescribe and collect reasonable rates, fees or charges for service, facilities and accommodations of said undertaking and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will procure revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation and maintenance of such undertaking, including reserves therefor. (77 Del. Laws, c. 274, 5/22/10)

4.7.2 - Method of Borrowing Money

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

1. The Council shall by resolution propose to the qualified voters of the Town of Clayton the purpose or purposes for which the stated amount of money shall be borrowed. The resolution shall state the amount of money desired to be borrowed, the purpose of which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan, including data on total related debt and the debt limitations established by this Charter, shall fix a time and place for hearing on the resolution; and shall provide for publication of an announcement of the hearing in a newspaper of general circulation in Kent County at least one week prior to the hearing date.
2. A public hearing shall be held at which time all interested persons wishing to be heard shall be given an opportunity to express their views. Their testimony shall be considered in evidence by the Council.
3. If the Council desires to continue with the bond proceedings, it shall then, by resolution, direct that the question be submitted to a referendum. An election shall be held not less than thirty (30) days nor more than sixty (60) days after the date of such resolution.
4. The notice of time and place for holding the said special election shall be printed in a newspaper of general circulation in Kent County once a week for three (3) successive weeks prior to the election. The special election shall be conducted by the election officers as herein provided for annual elections.
5. The Council shall cause the election officers to prepare, print and have available for distribution a sufficient number of ballots not less than five (5) days prior to the date of the special election. At said referendum, all qualified voters of the Town of Clayton shall be entitled to one vote.
6. The election officers shall count the votes for and against the proposed loan and shall announce the result thereof; shall make a certificate under their hands of the number of votes cast for and against the proposed loan; and shall deliver the same to the Council which certificates shall be entered on the minutes of the Council and the original shall be filed with the papers of the Council. Provided, however, no bond issues shall be deemed approved unless a majority of those voting at such referendum shall vote for such bond issue.
7. The form of the bonds and certificates of indebtedness, the date of payment of interest, the classes, the dates of maturity, and the provisions pertaining to the registration shall be determined by the Council. The bonds shall be sold to the highest bidder after at least one month's notice published at least twice in a newspaper of general circulation in Kent County and at least once in a publication carrying municipal bond notices and devoted primarily to financial news. The Council shall provide, in its budget, for revenues sufficient to pay the interest and

principal on the said bonds or certificates of indebtedness at the maturity or maturities therefor. The full faith and credit of the Town of Clayton shall be deemed pledged for the due payment of the principal and interest of general obligation bonds issued within the prescribed debt limitation when the same have been properly executed and delivered for value.

4.8 - Power of Council Over Streets

- (a) Upon the majority vote of its members, the Council shall have the power to locate, lay out, and open any new street, lane or alley or widen any street, lane or alley heretofore laid out in said Town or reopen any old street, lane, or alley now closed.
- (b) The persons respectively, through and over whose lands such street, lane or alley may pass, shall receive compensation as Council shall deem just and reasonable under all circumstances. Said compensation, if any be allowed, 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 Council.
- (c) Whenever the Town Council shall have determined to locate and lay out or widen any street, lane or alley and shall have fixed the compensation therefor, it shall be its duty immediately after the survey and location of the said street, lane or alley, to notify in writing, the owner or owners of the real estate through or over which said street, lane or alley may run, of its determination to open or widen the same, and to furnish a general description of location thereof, and also the amount of the damages or compensation allowed to each.
- (d) Any owner who may be dissatisfied with the amount of compensation or damages allowed by the Town Council, as aforesaid, may, within ten (10) days after such notice, appeal by serving a written notice to that effect on the President of the Council or to the person performing the duties of President of Council for the time being. In order to prosecute said appeal, such appellants shall within fifteen (15) days after the expiration of the ten (10) days allowed for appeals, make written application to the Associate Judge to the Superior Court of this State, resident of Kent County, for the appointment of a commission to hear and determine the matter of damages or compensation.
- (e) Thereupon the said Associate Judge shall issue a commission under his/her hand directed to five (5) qualified voters of the said county, three (3) of whom shall be residents of said Town of Clayton and two (2) of whom shall be non-residents of said Town. The individuals named in such commission, being first sworn or affirmed on the day and at the hour and place stated in the notice shall view the premises and hear the witnesses, and shall without delay, determine and fix the damages, if any, which said appellant will sustain by reason of being deprived of any property as aforesaid. Thereupon the said members of the commission shall make return in writing of their proceedings to the said Resident Judge, who shall cause a copy of said return to be delivered to the President, and such return shall be final and conclusive. The said Judge shall have the power to fill any vacancies among the members named in such commission. On application within twenty (20) days after the award the said Judge may set aside a grossly improper award and appoint a new commission. The amount of damages being ascertained, the Town may pay or tender the same to the person entitled thereto within one (1) month after the same shall be finally ascertained, or may deposit the same in any bank in the Town to the credit of the person entitled thereto, within the said period of one (1) month, and thereupon the Town may carry into effect the plan contemplated in the resolution aforesaid.
- (f) After the damages shall be fixed and ascertained by the members of the commission as aforesaid, the Town Council shall have the option to pay damages assessed, within the time aforesaid, and proceed with the said improvements, or, upon the payment of the costs only, may abandon the proposed improvements.
- (g) In the ascertainment and assessment of damages by the members of the commission, if the damages shall be increased, the costs of the appeal shall be paid by the Treasurer of the Town of Clayton, but if said damages shall not be increased, the said costs shall be paid by the appellant. The fees to the members of the commission shall be set by ordinance and shall be taxed as a part of the costs.

4.9 - Sidewalks and Gutters

- (a) Whenever the Town of Clayton shall have determined that any paving, guttering, or graveling of the sidewalks or any or either or all of them, shall be done it shall notify the owner or owners of land in front of whose premises the same is to be done, particularly designating the nature and character thereof, and thereupon it shall be the duty of said owner or owners, to cause such paving, graveling or guttering to be done in conformity with said notice.
- (b) In the event of any owner neglecting to comply with said notice for the space of thirty (30) days, the Council may proceed to have the same done, and when done the Treasurer of the Town of Clayton shall as soon as convenient thereafter present to the said owner or owners of such lands, a bill showing the expense of paving, graveling or guttering. If such owner or owners be not resident in the Town of Clayton, such bill may be presented to the occupier or tenant of said land or if there be no occupier or tenant resident in the Town of Clayton, such bill may be sent by mail to such owner or owners, directed to him/her or them at the post office nearest his/her or their residence. If such bill be not paid by the owner or owners of such lands within thirty (30) days after the presentation, then it shall be the duty of the Council to issue an order in the name of "The Town of Clayton", under the hand of the President, and the seal of the said corporation, directed to the Treasurer of the Town of Clayton, commanding him/her to proceed to collect said delinquent assessment.
- (c) The claim for paving, graveling or guttering shall be a lien on the premises in front of which the said work was done, and shall have the same priority and be collectible in the same manner as municipal property taxes.
- (d) Any notice required by this section to one co-owner, shall be notice to all; and in case no co-owner shall reside in the Town, notice may be served upon the occupier or tenant of said premises resident in the 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 premises, directed to him/her or them at the post office nearest his/her or their residence. The provisions hereinbefore contained in this section, shall apply to any order made by the Council in respect to any such paving, graveling, or guttering heretofore done, which the Council may deem insufficient or to need repairing. The Council in addition to the provisions of this section hereinbefore shall have power and authority to enforce by ordinance, all the requirements of this section by imposing such fines and penalties as shall be in the judgment of the Council necessary and proper.
- (e) The paving and guttering outside of said curbing shall be done by the Council at the expense of the Town, except in case of property exempt from taxation, in which case the owner and owners of said exempt property shall pay for the paving and guttering outside of said curbing, and in case said owners refuse so to pave and gutter, the Council may proceed to have the same done and collect the expense thereof in the same manner and by the same proceedings as are hereinbefore provided, in case of paving, graveling and guttering sidewalks, footways, etc., where the owners of property refuse to pave, gravel and gutter sidewalks and footways in front of their property.

4.10 - Sewer and Water Improvements

- (a) The Town shall have exclusive jurisdiction and control within the Town of Clayton of the drainage thereof, and the right to alter and change the course and direction of any of the natural watercourses, runs or rivulets within the Town, and may pass ordinances for the construction of water mains, storm drains and sanitary sewers within the Town. The Town also shall have the power and authority to regulate, maintain, cleanse and operate such water mains, storm drains and sanitary sewers and the natural watercourses, runs and rivulets within the Town open, clear and obstructed, and for that purpose may authorize the entry upon private lands and take, condemn and occupy the same and by regulation prescribe the mode in which they shall be altered, changed, opened, maintained, cleansed, closed and kept open and unobstructed, and shall bear the expenses thereof and may, in its discretion, assess the costs of sanitary sewers, water lines, and storm drains upon the property particularly benefited thereby, except such real estate as is exempt from municipal assessment taxation by virtue of any law of the State of Delaware, and prescribe the mode of collection thereof; provided,

however, that nothing herein contained shall be constructed to authorize the taking of private property for public use without just compensation.

- (b) The Council may, by condemnation proceedings, take private land, or the right to use private land, under, over or on the surface thereof, for the proper operation or extension of the water and/or sewer systems. The method of procedure by condemnation under this section shall be the same as provided for in Section 4.7 of this Act for the opening and laying out of new streets.
- (c) The Town likewise is authorized to make agreements with Kent County or other municipalities to permit interconnection of the Town and County sewer systems. The Council shall have the right to compel the owner of any building or structure requiring sewage disposal facilities to connect to any sewer main that is available.
- (d) Whenever the Council shall determine that construction, improvement, alteration or repair of sanitary sewers is required, it shall be empowered and authorized to direct any necessary survey and other work be undertaken and any costs be determined. Necessary construction, improvement, alteration or repair work may be done by contract or by Town forces.

4.11 Investigations

The Town shall have the power to borrow upon the full faith and credit of said Town, for municipal purposes of any character whatsoever, by issuing either general obligation bonds or certificates of indebtedness secured by the full faith and credit of the Town, or by issuing revenue bonds, either in whole or in part of the total amount necessary to the proper execution of any function or power of the Town. (**77 Del. Laws**, c. 274, 5/22/10)

Article V: Police

- (a) Council may appoint a police force consisting of a chief and such number of subordinates as the Council may deem appropriate; and the Council shall from time to time make 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 general directions of the Council, and may be removed by the Council. They shall preserve peace and order, and shall compel obedience, within the Town limits, of the ordinances of the Town and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe.
- (b) Each member of the Police Force shall be vested, within the Town limits and within one (1) mile outside of said limits with all the powers and authority of a constable of Kent County, and may carry firearms, and in case of pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.
- (c) Council may delegate its power to direct, hire, or remove police officers to the acting Police Chief by Ordinance or Resolution. (**77 Del. Laws**, c. 274, 5/22/10)

Article VI: New Developments And Subdivisions

- (a) Whenever it is contemplated that a new real estate development shall be undertaken, the Council shall require the developer to submit plans and supporting documents to the Council for approval prior to the actual construction and/or installation of improvements and utilities.
- (b) Whenever the installation of new facilities is contemplated in a partially developed area, the Council shall make careful determination of the ability of the area to support the cost of the projected improvement before approving it. Also, the developer shall provide evidence to the Council that he/she has complied with all State and County regulations.

Article VII: Property And Special Assessments**7.1 - Property Assessment Procedure**

- (a) It shall be the duty of the assessor of said Town, annually, to make a true, just and impartial valuation and assessment of all real estate within the Town except such real estate as it exempts from municipal assessment and taxation by virtue of any state law or provisions of this Charter, and also of such personal property as is subject to county assessment and taxation.
- (b) It shall be lawful for the Town to enter into an agreement with the Board of Assessments for Kent County to inspect and copy, or obtain copies, of the assessments made for county purposes. Annually, the Council shall make a judgment regarding whether the Town will utilize such county assessments and whether said county assessments are a true, just and impartial evaluation. The Council then shall order the adoption of such county assessment for municipal purposes or the adoption of assessments as determined by the assessor; provided, however, that adoption of the county assessment for municipal purposes shall not preclude the Town from modifying the county assessment list to take into account new construction or changes in ownership or use not reflected in the county assessment list, or clear cases of inequitable assessment.
- (c) Each year, there shall be prepared and submitted to Council, at least sixty (60) days before the beginning of the tax year, two (2) or more copies of the assessment roll, which shall show the location of each parcel of taxable real and personal property by street and number or other suitable description. When the Council approves the roll as prepared, or as modified by the Council, then a full and complete transcript thereof shall be posted in a place in the Town designated by the Council. Such posting shall take place at least forty-five (45) days before the beginning of the tax year and shall remain posted up to, but not including, the appeal day as herein set out. Notice of the time and place where, the assessment listed may be viewed, and the time and place of hearing appeals shall be advertised in a newspaper of general circulation in the Town, and notice shall be given by posting such announcement in at least five (5) public places throughout the Town. (**77 Del. Laws**, c. 274, 5/22/10)

7.2 - Collection of Taxes

- (a) A list containing the names of the taxables and, opposite the name of each, the amount of his/her real and personal property assessment. and the total amount of the tax, shall be prepared as soon as practical after the beginning of the tax year. All taxes shall be paid to the Town Treasurer, subject to such penalties and rules as the Council may direct. (**77 Del. Laws**, c. 274, 5/22/10)
- (b) It shall be the duty of the Town Treasurer to proceed forthwith to collect all taxes in the calendar year in which assessed. In the collection of said taxes, he/she shall have all powers conferred upon or vested in the Receiver of Taxes and the County Treasurer for Kent County.
- (c) The provisions of Section 2901 through 2905, inclusive, of Title 25 of the Annotated Code of Delaware, as amended, with reference to tax liens, shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter, except that any such lien for taxes imposed shall continue for ten (10) years from the date such lien commences.

7.3 - Levying of Special Assessments

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

7.3.1 - Assessments Payable in Installment

The Council may provide for the payment of special assessments, for whatever purpose levied, by installments, but assessments for permanent improvements shall be within ten

(10) years in annual or more frequent installments, and assessments for current services shall be payable within one (1) year.

7.3.2 - Assessments Not to Exceed Value of Benefit

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

7.4 Impact Fees.

In connection with development plans, the President and Council have the authority to impose upon new development or construction, upon the first-time occupancy of new construction, or upon annexed property such 'Impact fees' as are reasonably calculated to cover the proportionate cost of installing, enlarging, improving or expanding public or municipal improvements, including sewer, water, electric, gas, roads, parking, police, and parks; and/or to contribute to the cost of operations of those volunteer fire companies and/or ambulance/paramedic companies providing services to the Town. (**77 Del. Laws**, c. 274, 5/22/10)

Article VIII: Council Appointments

8.1 - Assessor

At the regular meeting of Council on the second Monday in May in each year, there may be appointed an Assessor, who shall be a citizen of the Town of Clayton, but no person then serving as member of Council shall be eligible to the Office of Assessor during the term of his/her office as a member of Council. The Assessor shall receive such reasonable compensation for his/her services as shall be determined by the Town Council. (**77 Del. Laws**, c. 274, 5/22/10)

Article IX: Creation Of Officers Or Departments

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

Article X: Administrative Policy

10.1 - Personnel Provisions

- (a) All appointments and promotions of Town employees shall be under the direction of the Council.
- (b) The Council may provide personnel rules which shall be adopted by the Council by ordinance, with or without amendment as it deems appropriate.

10.2 - Retirement Plan

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

10.3 - Contracts

- (a) All contracts of whatever character involving an expenditure above an amount determined by resolution of the Council shall be written and shall be let and made by the Council and shall be based on specifications provided by the appropriate person designated by the Council.
- (b) Pending advertisement for bids, any plans, specifications, and profiles to be used in the proposed work or contract shall remain on file in the office of the Council and shall be subject to the inspection of any interested person. All contracts and purchases above an amount

- determined by resolution of the Council shall be entered into and made only after advertising not less than two times in a newspaper of general circulation in Kent County inviting competitive bids. Each such bid shall be sealed and filed with the person designated by the Council. All bids shall be opened in the presence of the Council or a duly authorized committee of the Council and shall remain on file.
- (c) The Council shall consider all bids which have been properly filed and may enter into a contract with the party offering the lowest and/or the bid which the Council determines to be best qualified and suited to serve the interests of the Town even though it may not be the lowest bid. The Council may reject all bids and readvertise for bids, or they may have the work done under the supervision of the proper department of the Town. The awarding of a contract to the successful bidder shall give no right of action or claim against the Town upon such bid or contract until the same shall be reduced to writing and duly signed by the contracting parties. The Council shall have the power to require all bidders to post bonds to secure the performance of the contract and all claims for labor and material used in the work. The Council 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 bid received, or, if no bids are received, the Council may direct the purchase of supplies in the open market. Nothing in this section shall be construed to apply to contracts for the provision of utility service at rates regularly on file with the Public Service Commission of Delaware or any federal regulatory body.
- (d) Any requirement provided for within this Section should not apply to contracts for professional services not within the scope of the Delaware Professional Services Act (29 Delaware Code, Chapter 69, Subchapter II) as it may from time to time be amended.

Article XI: Financial Procedure

11.1 - Fiscal Year

The fiscal year of the Town of Clayton shall begin on the first day of January in each year and shall end with the next succeeding thirty-first day of December. Such fiscal year shall also constitute the budget and accounting year. (69 Del. Laws, c. 14, 4/19/93)

11.2 - Budget.

- (a) Annually each year, the Council shall cause to be submitted a budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year. The budget for the ensuing fiscal year shall be adopted by the Council not later than the last day of the fiscal year currently ending. The tax rate for the ensuing fiscal year shall be adopted at the time the budget is completed.
- (b) The budget may contain the following information:
1. A detailed estimate of the expense of conducting each department and office of the Town for the ensuing fiscal year.
 2. The value of supplies and materials on hand, together with the nature and kind of any machinery or other implements and the condition thereof.
 3. The amount of the debt of the Town, together with a schedule of maturities of bond issues.
 4. A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year, the amount required for the sinking fund.
 5. An estimate of the amount of money to be received from taxes and all other anticipated income of the Town from any source or sources.
 6. Council shall allow adequate reserve for depreciation.
- (c) The budget shall be used as a guide in determining Town expenditures but shall not be a limitation upon the power of the Council to appropriate funds in excess of the amounts set forth in the budget, if in its discretion it seems advisable to do so.

11.3 -Independent Audit

Annually, the Council shall designate a firm of certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of fiscal transactions of the Town government and shall submit their report to the Council. Such accountants shall have no direct or indirect personal interest in the fiscal affairs of the Town government or any of its officers. They shall not maintain any accounts for the Town, but shall, within specifications approved by the Council, audit the books and documents of all appropriate officers and employees of the Town government in all departments, offices and agencies. Designation of the accountants shall be made by the Council not later than thirty (30) days after the beginning of the fiscal year for which the audit is to be conducted. When received, the audit report shall become part of the Council minutes.

Article XII: Elections**12.1 - Council Election**

- (a) Members of Council shall be elected as follows: Council members shall be elected by the qualified voters of the Town at large; in odd numbered years election for three (3) Council members shall be held, and in even numbered years election for two (2) Council members shall be held.
- (b) All candidates must file a written petition with the Town Clerk at the Town office during normal business hours no later than the second Friday prior to the scheduled election.

12.2 - Election Procedure**12.2.1 Voting Qualifications**

Every citizen of the Town of Clayton who shall have reached the age necessary to vote in an election held 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 Town shall be entitled to vote.

12.2.2 Election Officers

- (a) The election shall be held by three qualified voters of said Town, who shall be designated for that purpose as "election officers" by the Town Council at its last regular meeting in each year, prior to the date of said election, one of whom shall be named to preside. The election officers shall keep a list of all voters at such election.
- (b) When the polls shall have been closed, the election officers shall publicly count the votes and shall certify the results of the election to each of the persons elected and to the Council. The three (3) candidates for Council member in odd numbered years and the two (2) candidates for Council member in even numbered years who have the greatest number of votes for said office shall be declared elected. When the result of the election shall have been ascertained, the election officers shall make out certificates of election, and deliver them to the various members of Council elected, with the hour and place of meeting of the Town Council at the first stated meeting after their election. A certificate of election shall, also, be given to the Secretary or Town Clerk/Collector to be entered in the minutes of the Town of Clayton.
- (c) The Council shall set the compensation that the election officers shall receive in connection with the holding of said election.

12.2.3 Polling Date

The day for elections for Town Council shall be the last Tuesday in April. The election shall be held at the Town Hall or at such other convenient place within the Town limits as Council shall establish by resolution. The Council shall advertise the place, date and times of the election at least once a week for two successive weeks immediately prior to said election in a newspaper of general circulation in the Town of Clayton, and post public notices containing that information in at least three public places within the Town at least two weeks prior to the date of the election. (77 Del. Laws, c. 157, § 1, 7/10/09)

12.2.4 Voting Machines and Ballots

In any election where one or more Council seats are contested, the polls shall remain open between the hours 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 Department of Elections of Kent County. (**77 Del. Laws**, c. 274, 5/22/10)

12.2.5 Absentee Voting

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

Article XIII: General Provisions**13.1 - Performance Bonds**

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

13.2 - Oath of Office

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

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

The President of Council and other members of Council shall have the power to administer oaths required by this Charter. (**68 Del. Laws**, c. 282, 6/30/92)

13.3 - Charter Amendments

The Council may, by ordinance, provide a procedure by which it may propose to the voters an amendment to this Charter, but said procedure shall, in all respects, comply with applicable State law. Referendum on such amendments proposed may be held at regular or special election, as determined by the Council by resolution. Amendments to this Charter to be voted on at referendum shall be presented for voting by ballot title. The ballot title may differ from its legal title and shall be a clear, concise statement describing the substance of the proposed amendment without argument or prejudice. If a majority of the qualified voters of the Town of Clayton voting upon the proposed Charter amendment, vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, upon adoption by the voters.

13.4 - Severability of Charter Provisions

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

13.5 - Prohibitions

Contracts with the Town. It shall be unlawful for the Council or the Town's officers, agents, or employees to make or enter into any contract for materials, supplies, work or labor for the use and benefit of the Town of Clayton with any member of the Council or with any partnership in which any member of the Council is a partner, or with any corporation in which any member of the Council is a director or stockholder

or with any firm or company in which any member of the Council is pecuniarily interested, except with the unanimous consent of the entire Council, and such contract be absolutely null and void without such unanimous consent, provided, however, that nothing herein shall prohibit the Council, the Town's officers, agents or employees, from entering into any such contract without such approval where the amount involved in the transaction and other related transactions does not exceed the sum of One Hundred Dollars (\$100.00)

Article XIV: Transitional Provisions

14.1 - Former Government in Force

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

14.2 - Continuance in Office

- (a) All persons holding any non-elective office or employment under the Town of Clayton at the time this Charter goes into effect shall continue in such office or 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.
- (b) The President of the Council of Clayton shall continue as the President of the Town Council as well as other officers of the Town of Clayton and the Council members shall also continue in office until their successors are elected and qualify as previously provided for in this Charter.

14.3 - Effective Date

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

(66 Del. Laws, c. 291, 6/28/88, as amended by 67 Del. Laws, c. 80; 68 Del. Laws, c. 282; 69 Del. Laws, c. 14; 71 Del. Laws, c.124; 74 Del. Laws, c. 232, 6/3/04; 77 Del. Laws, c. 157, § 1, 7/10/09; 77 Del. Laws, c. 274, 5/22/10)