

## Dagsboro

### Section 1. Incorporation

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

The Town shall have perpetual succession and shall succeed to own or possess all property, whether real, personal, or mixed, tangible or intangible, of whatever kind and nature, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed or enjoyed by the Town of Dagsboro previously incorporated at Chapter 161, Volume 43, Laws of Delaware, as amended.

### Section 2. Territorial Limits

The present boundaries and limits of The Town of Dagsboro are hereby established and declared as follows:

BEGINNING at a point in the center of the State Highway leading from Frankford to Dagsboro, said beginning point being opposite the center of the John M. Clayton School Building; thence North eighty-eight degrees West seven hundred feet (N 88 degrees W 700 ft.) to a stone; thence North twenty-four degrees West four thousand and one hundred and fifty feet (N 24 degrees W 4,150 ft.) to the run of Pepper's Creek Canal; thence in a southwesterly direction with said Canal to the middle of a ditch known as the fifth prong of said Canal; thence in a Northwesterly direction with the various meanderings of said ditch to the center of the Coleman du Pont Boulevard (State Route 113) to a bridge, numbered 423; thence with the center of said Boulevard the following two courses and distances, to-wit; North seventy-seven degrees West seven hundred and seventy feet (N 77 degrees W 770 ft.); North forty-five degrees West two thousand and fifty-five feet (North 45 degrees W 2,055 ft.) to a bridge numbered 501; thence in a Northeasterly direction with the various meanderings of a ditch to a stone at the ditch on line for lands of John C. Hazzard and Granville A. Cannon; thence North seventy-five degrees East one thousand and eighty-two feet (N 75 degrees E 1,082 ft.) to the intersection of the State Highway leading from Dagsboro and the D. M. & V. R. R.; thence North twenty-one degrees East one hundred and seventy-seven feet (N 21 degrees E 177 ft.) to an iron; thence South sixty-four and one-half degrees East eight hundred and ninety-five feet (S 64-1/2 degrees E 895 ft.); thence South forty-four degrees and thirty minutes East seven hundred and twenty-three feet (S 44 degrees 30 minutes E 723 ft.) to a stone on the bank of a ditch; thence in a South easterly direction with the various meanderings of said ditch to a stone where ditch empties into Pepper's Creek Canal; thence South thirty-six and one-quarter degrees East five hundred and thirty-six feet (S 36-1/4 degrees E 536 ft.) to a tone; thence South sixty and one-half degrees East two hundred and ninety-six feet (S 60-1/2 degrees E 296 ft.) to a stone; thence South one-half degrees East one thousand five hundred and ninety-four feet (S 1/2 degree E 1,594 ft.) to a stone; thence South twenty-eight and one-half degrees West one thousand three hundred and ten feet (S 28-1/2 degrees W 1,310 ft.) to a stone; thence South one and one-half degrees West two thousand one hundred and sixty-eight feet (S 1-1/2 degrees W 2,168 ft.) to a stone; thence South sixty-three and three-quarter degrees West five hundred and forty feet (S 63-3/4 degrees W 540 ft.) to the point or place of beginning. The Council may, at any time hereafter, cause a survey and plot to be made of said Town, and the said plot, when so made and approved by the said Council, and signed by the Mayor and Secretary of Council, and sealed with the Town Seal, and when recorded in the office of the Recorder of Deeds of the State of Delaware, in and for Sussex County, at Georgetown, shall be deemed to be a true map and plot of the Town, and the same, or the record thereof or a duly certified copy of said record, shall be evidence in all Courts of law and equity in this State.

### Section 3. Annexation Of Territory

In the event it becomes feasible and necessary in the future for The Town of Dagsboro to enlarge its then existing limits and territory, such annexation accomplished pursuant to the following procedures shall be lawful:

- (A) If all of the property owners of a territory contiguous to the then existing corporate limits and territory of The Town of Dagsboro, by written Petition with the signature of each such Petitioner duly acknowledged, shall request the Town Council to annex that certain territory in which they own property, the Mayor of The Town of Dagsboro shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written Report containing its findings and conclusions to the Mayor and Town Council of Dagsboro, The Report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Dagsboro and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Dagsboro may then pass a second Resolution annexing such territory to The Town of Dagsboro. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the Town Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided as if the annexation were proposed by five (5) or more property owners but less than all the property owners of a territory contiguous to the then limits and territory of The Town of Dagsboro.
- (B) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of The Town of Dagsboro by written Petition with the signature of each such Petitioner duly acknowledged shall request the Town Council to annex that certain territory in which they own property, the Mayor of The Town of Dagsboro shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the Town Council, by majority vote of the elected members thereof may, by Resolution, propose that a committee composed of not less than three (3) of the elected members of the Town Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of The Town of Dagsboro.
- (C) Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written Report containing its findings and conclusions to the Mayor and the Town Council of Dagsboro. The Report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Dagsboro and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving a report, a second Resolution shall then be passed by the Town Council proposing to the property owners and residents of both The Town of Dagsboro and the territory proposed to be annexed that the Town proposes to annex certain territory contiguous to its then limits and territory. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution proposing annexation to the property owners and residents shall require the affirmative vote of two-thirds (2/3) of all the elected members of the Town Council. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the Resolution failed to receive the required affirmative vote. The second Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution adopted by the Town

Council setting forth the above information shall be printed in a newspaper having a general circulation in The Town of Dagsboro at least one (1) week prior to the date set for the public hearing, or, at the discretion of the Town Council, the said Resolution shall be posted in four (4) public places both in The Town of Dagsboro and in the territory proposed to be annexed.

- (D) Following the public hearing, but in no event later than thirty (30) days thereafter, a Resolution shall then be passed by a majority of the Town Council ordering a Special Election to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. Passage of this Resolution shall ipso facto be considered the determination of the Town Council to proceed with the matter of the proposed annexation.
- (E) The notice of the time and place of said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in The Town of Dagsboro, or, in the discretion of the Town Council, the said notice may be posted in four (4) public places, both in The Town of Dagsboro and in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the said Special Election.
- (F) At the Special Election, every property owner, whether an individual, partnership or a corporation both in The Town of Dagsboro and in the territory proposed to be annexed shall have one (1) vote. Every citizen of either The Town of Dagsboro or of the territory proposed to be annexed over the age of eighteen (18) years who is not a property owner shall have one (1) vote. In the case of property owned by more than one (1) person, firm or corporation or any combination thereof whether as tenants in common, joint tenants, or as tenants by the entireties, each such joint owner shall have one (1) vote. In the event that a person owns property or has an ownership interest in property both in The Town of Dagsboro and in the territory proposed to be annexed and resides in either place, he may vote only where he resides. In the event that a person owns property both in The Town of Dagsboro and in the territory proposed to be annexed but does not reside in either place, he may vote only in The Town of Dagsboro and not in the territory proposed to be annexed. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of The Town of Dagsboro in the case of property owners and citizens of the Town and the and records of the Board of Assessment of Sussex County in the case of property owners and residents of the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.
- (G) In the event that an individual holds an unrevoked Power of Attorney duly executed specifically authorizing the said individual to vote at the said Special Election, an executed copy of the Power of Attorney shall be filed in the Office of The Town of Dagsboro. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election.
- (H) The Town Council of The Town of Dagsboro shall cause voting machines to be used in the Special Election, the form of ballot to be printed as follows:

[ ] For the proposed annexation.

[ ] Against the proposed annexation.

- (I) The Mayor of The Town of Dagsboro shall appoint three (3) persons to act as a Board of Special Election, at least one (1) of whom shall own property in The Town of Dagsboro and at least one (1) of whom shall own property in the property proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in a public place as designated by the Resolution calling the Special Election. The Board of Special Election shall have available, clearly marked, two (2) voting machines. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations who are authorized to vote as residents or property owners of The Town of Dagsboro shall be accomplished on the other such voting machine. The polling place shall be open from one

- o'clock in the afternoon, prevailing time, until five o'clock in the afternoon, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.
- (J) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the Town Council of The Town of Dagsboro. Said Certificate shall be filed with the papers of the Town Council.
- (K) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from The Town of Dagsboro and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one (1) year from the date of said Special Election. If a favorable vote for annexation shall have been cast, the Town Council of The Town of Dagsboro shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be a part of The Town of Dagsboro from the time of recordation. The failure to record the description or the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.
- (L) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books of the Board of Assessment of Sussex County, no election shall be necessary and the Town Council of The Town of Dagsboro may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation if such property is owned by a corporation or by a written Petition with the signature of each such Petitioner duly acknowledged if such property is owned by an individual, requesting the Town Council to annex that certain territory in which they own property. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of the Town of Dagsboro shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Dagsboro. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Dagsboro and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Dagsboro may then pass a second Resolution annexing such territory to The Town of Dagsboro. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the Town Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution shall be passed by three-fourths (3/4) of all the elected members of the Town Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of The Town of Dagsboro shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the

Resolution. The territory considered for annexation shall be considered to be a part of The Town of Dagsboro from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.

#### **Section 4. Structure Of Government**

The Government of the Town in the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in and exercised by a five (5) member Town Council, each of whom shall be elected by a popular vote as hereinafter provided. The term of office for each member of the Town Council shall be two (2) years, commencing at the Annual Meeting of the Town Council following his/her election and continuing until his/her successor is duly elected and qualified. Town Council members shall continue to serve as Council members and officers of the Town from and after the effective date of this Charter as amended until the successors are duly elected or appointed. The Mayor and each Council person shall receive as compensation such amount as shall be determined by the Town Council by ordinance or resolution for attendance at any regular meeting, special meeting or workshop meeting. The time of payment shall be determined by the Town Council, but in no event shall such compensation be paid less frequently than quarterly. (68 Del. Laws, c. 138, 7/2/92)

#### **Section 5. Qualifications For Members Of Town Council**

The qualifications for each member of the Town Council at the time of the election shall be as follows:

- (A) Each member shall be at least eighteen (18) years of age.
- (B) Each member shall be a natural person, citizen of the United States and of the State of Delaware and a bona fide resident of The Town of Dagsboro.
- (C) Each of the qualifications for members of the Town Council shall be continuing qualifications to hold office and the failure of any member of the Town Council to have any of the qualifications required by this Section during his term of office shall create a vacancy in the office.

#### **Section 6 Method of Filing for Candidacy for Town Council person**

Each candidate for the Office of Town Council shall file for candidacy as follows:

- (A) Each candidate for Town Council shall notify the Clerk of the Town Council in writing of his or her candidacy.
- (B) All notifications of candidacy shall be filed with the Clerk of the Town Council not later than 4:30 p.m. in the afternoon, prevailing time, on the twenty-first day prior to the date of the election. If such day is a legal holiday, the last day for filing notification of candidacy shall be the last business day immediately preceding the twenty-first day prior to the date of election. The earliest date for filing of notifications of candidacy shall be twenty days before the aforesaid deadline. Such notification of candidacy shall be upon a suitable form or blank furnished by The Town of Dagsboro, which said statement shall be dated, signed by the candidate and witnessed by at least two (2) qualified persons eligible to vote in the Annual Municipal Election. Twenty (20) days prior to the aforementioned filing deadline, the Town shall conspicuously post within the Town a Notice of Solicitation of Candidates. Such Notice shall include the term or terms of each office up for election, the deadline and procedure for declaring candidacy of an office up for election, and the qualifications for holding each office.
- (C) The Town Council shall make arrangements for voting machines to be placed in the polling place prior to the time set forth in this Charter for the beginning of the Annual Municipal Election.
- (D) The Town Council shall hold a meeting within five (5) days after the close of the time for the filing of notification of candidacy for the purpose of determining the qualifications of the candidates. (77 Del. Laws, c. 39, 6/16/09)

**Section 7 Manner of Holding Annual Municipal Elections**

The procedure for holding the Annual Municipal Election shall be in accordance with the provisions of Title 15, Delaware Code, Chapter 75 and as follows:

- (A) The Annual Municipal Election shall be held at a place designated by the Town Council within the corporate limits of The Town of Dagsboro on the first Saturday in December of each and every year from one o'clock in the afternoon, prevailing time, until five o'clock in the evening, prevailing time.
- (B) Notice of the Annual Municipal Election shall be posted conspicuously within the Town no later than twenty (20) days prior to the date of the election. Such notice shall include the date, time and location of the election, the candidates for each office on the ballot and the qualifications to vote in the election.
- (C) All Notices of Annual Municipal Elections shall include information as to how to obtain an absentee ballot.
- (D) The terms of each Councilperson shall be staggered so that at each Annual Municipal Election there shall be elected either 2 or 3 Councilpersons who shall serve for a term of two (2) years or until their successors have been duly elected and qualified.
- (E) The members of the Town Council of Dagsboro who hold office at the time of passage of this Act shall continue to hold office until their respective successors have been duly elected and qualified.
- (F) The Annual Municipal Election shall be conducted by a Board of Election consisting of an Inspector and two (2) Judges appointed by the Mayor of The Town of Dagsboro with the concurrence of a majority of the members of the Town Council not later than the last regular meeting of the Town Council prior to the date of the Annual Municipal Election. The provisions for qualification of members of the Board of Election, for conduct of members of the Board of Election and the oath to be administered to members of the Board of Election shall be as set forth in Title 15, Delaware Code, Section 7551, 7556, 7557, and 7558, as amended. The Board of Election shall determine who is and who is not lawfully entitled to vote at the Annual Municipal Election, take reasonable steps to see that the law pertaining to the Annual Municipal Election receives compliance and shall count the votes and certify the results to the Town Council. If any of the officers so chosen and designated to conduct the Annual Municipal Election shall not be present at the polling place at the time designated for the holding of the Annual Municipal Election, it shall be lawful for the qualified voters present at the polling place at the time of holding said Annual Municipal Election to elect from among their own number a person to fill each vacancy in such Board of Election caused by the absence of any member of the Board of Election. The Board of Election shall keep a list of all persons who voted at such Annual Municipal Election.
- (G) Annual Municipal Elections shall be conducted in accordance with the provisions of 15, Delaware Code, Section 7557 entitled, "Conduct of the Election", as amended. At such Annual Municipal Elections, every person, male or female, who shall have attained the age of eighteen (18) years and who shall be an owner of real property within the Town of Dagsboro for a period of thirty (30) days immediately preceding the date of such Annual Municipal Election, whether an individual, partnership, association, or corporation, and whether or not a resident of the State of Delaware or of The Town of Dagsboro shall have one (1) vote, provided such person is registered to vote in The Town of Dagsboro. In addition, every person, male or female, who shall have obtained the age of eighteen (18) years on the date of the Annual Municipal Election who shall be a bona fide resident of the State of Delaware and The Town of Dagsboro on the date of the Annual Municipal Election shall be entitled to one (1) vote, provided such person is registered to vote in The Town of Dagsboro. Provided, however, that any person who is both an owner of real property and a resident and otherwise qualified to vote, shall only be entitled to one (1) vote. No vote shall be cast by a partnership except by a partner, and no vote shall be cast by an association or corporation except by a person holding a certified copy of a resolution of said association or corporation authorizing the person named therein to cast the vote of said association or corporation, which certified copy of the resolution shall be filed with the Election Board at the time said ballot is cast. The Town Council of The Town of Dagsboro shall provide two (2) registers to be known as the "Books of Registered

- Voters" which are to be kept at the Town office. The Books of Registered Voters shall contain the following information for each person who registers: The names of the voters arranged in alphabetical order, the permanent address of the voter, the local address of the voter, the birth date of the voter, the date the voter became a resident of the State of Delaware, the date the voter became a resident of The Town of Dagsboro, the date the voter became a freeholder of The Town of Dagsboro and other pertinent information. No person shall be registered upon the Books of Registered Voters unless such person will have acquired the qualifications to vote in the Annual Municipal Election for the year in which such person registers. A person shall only be required to register one time. The Books of Registered Voters shall be maintained at the Town office and shall show conclusive evidence of the right of any person to vote at the Annual Municipal Election. A person may register at the Town office during regular business hours on any day until the close of business on the third Friday in November in any year. (69 Del. Laws, c. 15, 4/19/93)
- (H) Any qualified voter of this Town may cast a vote by absentee ballot in any Municipal Election held under this provision of this Charter, and in accordance with the Absentee Ballot provisions of Subchapter V, Chapter 75 of Title 15, Delaware Code. Such absentee ballot votes shall be counted with the total ballots for the Municipal Election provided the absentee voter is unable to appear at the polling place because of being:
1. In the public service of the United States or of the State;
  2. In the armed forces of the United States or the Merchant Marines of the United States, or attached to and serving with the armed forces of the United States in the American Red Cross, Society of Friends or United Service Organizations;
  3. Absent from the Town on the day of the Municipal Election;
  4. Sick or physically disabled;
  5. Absent from the town while on vacation;
  6. Occupied by the person's business or occupation, including the business or occupation of providing care to a parent, spouse or that person's child who is living at home and requires constant care due to illness or injury; or
  7. Unable to vote at a certain time or on a certain day due to the tenets or teachings of that person's religion.
- (I) In the event that no candidate other than the incumbent has filed for office for which an election is to be held within the time set forth in Section 6 of this Charter, the incumbent shall be deemed to be re-elected for a full term and it shall not be necessary to have an election. In the event that a number of candidates file for an equal number of open offices for Town Council for which an election is to be held, the candidates who filed shall be deemed to be elected for full terms and it shall not be necessary to have an election.
- (J) In the event that no incumbent files for re-election and that fewer persons than positions available file for offices for which an election is to be held within the time set forth in Section 6 of this Charter, the person or persons who have filed shall be deemed to be elected for a full term and it shall not be necessary to have an election. The Town Council at its next regularly scheduled meeting shall nominate and appoint an otherwise qualified and willing person to fill any vacancy caused by the lack of a sufficient number of candidates to fill all available positions and such person shall serve a full term from the date of the election as if elected.
- (K) If two or more candidates for the office of Council shall receive an equal number of votes, the incumbent Councilperson shall continue in office until the run-off election as hereinafter provided is held. The Board of Election shall declare the election a tie and shall report that result to the Town Council which shall, within twenty (20) days thereafter, hold an election between those candidates where a tie resulted under the same rules as hereinbefore set forth. (77 Del. Laws, c. 39, 6/15/09)

### **Section 8. Organization And Annual Meeting Of Council**

- (A) Before entering upon the duties of their respective offices, each of the Councilmen Elect shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity. At 7:30 o'clock in the evening, prevailing time, at the first regular meeting

following the Annual Municipal Election, the Town Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid.

- (B) At the annual meeting, held on the first regular meeting following the Annual Municipal Election, the Town Council shall organize and elect a Mayor, who shall hold office for the term of one (1) year or until his successor shall be duly elected. The Town Council shall likewise select a Vice-Mayor who shall hold office for the term of one (1) year or until his successor shall be duly elected. The Town Council shall likewise elect a Secretary who may or may not be from their own number to serve until the organization meeting after the next Annual Municipal Election. The Town Council may also select an Assistant Secretary to serve, as aforesaid, who may or may not be from among their own number and such other officers and employees as may be determined to be necessary.

### **Section 9. Regular And Special Meetings**

The Town Council of The Town of Dagsboro shall hold at least one (1) meeting in each month, the time and days of the meeting to be determined by Resolution of the Town Council. If the day selected by the Town Council shall be a legal holiday or if the monthly meeting is postponed because of weather or other unavoidable reason, the monthly meeting of the Town Council of The Town of Dagsboro shall be held on the next succeeding regular business day. Special meetings shall be called by the Secretary upon the written request of any two (2) members of the Town Council of The Town of Dagsboro, stating the day, hour and place of the special meeting requested, and the subject or subjects proposed to be considered thereat. The Secretary shall thereon give written notice to the Mayor and to each member of the Town Council of the day, hour and place of such special meeting and the subject or subjects to be considered thereat. Such notice of the Secretary shall be deposited in the United States mail in the main Post Office of The Town of Dagsboro at least forty-eight (48) hours before the time of said special meeting; provided, however, that a written waiver of such notice signed by the Mayor of The Town of Dagsboro and by all members of the Town Council prior to or immediately upon convening of the said such special meeting shall make such written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time named in the waiver and the transaction of any business considered at the meeting if the waiver so states.

### **Section 10. Quorum**

A majority of the members elected to the Town Council shall constitute a quorum at any regular or special meeting; but a lesser 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.

### **Section 11. Rules And Minutes Of Council**

The Council shall determine its own rules and order of business and shall keep a journal of its proceedings and the yeas and nays shall be taken upon the passage of every ordinance and resolution and shall be entered in the journal with the text of the ordinance or resolution.

### **Section 12. Filling Of Vacancies**

If any vacancy shall occur in the office of Mayor or in the office of Councilman by death, resignation, loss of residence in The Town of Dagsboro, refusal to serve, or otherwise, the same may be filled by a majority vote of the remaining members of the Town Council, the person or persons so chosen to fill such vacancy shall be qualified as in the case of newly elected members and shall hold office for the remainder of the unexpired term.

### **Section 13. Vacancies and Forfeitures**

- A. Vacancies. The office of a Town Council member shall become vacant upon death, incapacity, resignation or forfeiture of such office.
- B. Forfeiture proceedings. A forfeiture of such office shall occur when any town Council member:
1. Is no longer qualified to hold such office;



2. Willfully violates any provisions of this Chapter;
  3. Is convicted of any felony; or
  4. Fails to attend two (2) consecutive regular and/or special Town Council meetings without being excused by Town Council vote.
- C. Determination Concerning Forfeiture. Where the conditions set forth in Section 13B, 1-4 are alleged, forfeiture may be approved by the remaining Town Council members. Such decision shall be made in executive session, and if the Town Council determines by majority vote that a forfeiture has occurred, it shall, within forty eight (48) hours thereafter, provide written notice thereof to the affected Town Council member, by certified mail, return receipt requested, sufficiently posted. Written notice shall be deemed provided when deposited in first-class mail with sufficient postage. The affected member shall be entitled to a hearing and then shall have thirty (30) days in which to make a written request for a public hearing before the Town Council, which hearing is to be held within forty five (45) days of the written request and at which hearing such member may appear with the assistance of counsel and present evidence to relevant issues. The Town Council shall also hear any other relevant evidence and vote again on the question of forfeiture. A determination of forfeiture shall be made only by unanimous vote of the Town Council members present and entitled to vote on the question.
- D. Failure to Request Hearing as a Bar. Failure of the affected member to make written request for a public hearing as hereinabove stated shall be an absolute bar to his or her right to challenge the town Council's decision. If a public hearing is held, the Town Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done on behalf of the affected person if requested, in writing, by him/her. (75 Del. Laws, c. 163, 7/12/05)

#### **Section 14. Contracts**

- (A) It shall be unlawful for the Town Council to make or enter into any contract in excess of Five Hundred Dollars (\$500.00) for materials, supplies, services, work or labor, for the benefit and use of The Town of Dagsboro with the Mayor or any member of the Town Council or with any partnership in which the Mayor or any member of the Town Council is a general partner, or with any corporation in which the Mayor or any member of the Town Council is a director or controlling stockholder, or with any firm or company in which the Mayor or any member of the Town Council is pecuniarily interested, provided that, if all the remaining elected members of the Town Council shall vote to enter into such contract, then the Town may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.
- (B) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by competitive bidding and the awarding of contracts to the lowest responsible bidder who submits a responsive bid; provided, however, that competitive bidding shall not be required in any of the following circumstances:
- (1) The aggregate amount involved is not more than Ten Thousand Dollars (\$10,000.00);
  - (2) The purchase or contract is for personal or professional services;
  - (3) The purchase or contract is for any service rendered by a University, college or other educational institution;
  - (4) The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision;
  - (5) The purchase or contract is for property or services for which it is impracticable to obtain competition;
  - (6) The public exigency, as determined by the Town Council, will not permit the delay incident to advertising;
  - (7) The materials to be purchased are to be used to complete a project under the supervision of the Town;

- (8) The purchase or contract is for property or services for which the Town Council determines the prices received after competitive bidding are unreasonable as to all or part of the requirements or not independently reached in open competition;
- (9) A public emergency as determined by the Town Council exists.
- (10) The purchase or contract is for property for which the distance involved or other factors in order to have maintenance performed, as determined by the Town Council, is unreasonable.

**Section 15. Duties Of The Mayor And President Of Council**

- (A) The Mayor shall be the President of the Town Council, shall preside at all meetings thereof, and shall vote on all matters brought before the Town Council for a vote.  
For all purposes of voting required by this Act, the Mayor shall be a member of the Town Council. He shall appoint all committees, receive complaints of nuisances, and other complaints of citizens concerning violations of law and ordinances. He shall present a report of complaints and nuisances and violations of law and ordinances to the Town Council at the first regular meeting after receiving such complaints. The Mayor shall perform such other duties and have such other powers as the Town Council shall determine not in conflict with the provisions of this Charter.
- (B) The Mayor may, for any reasonable cause, by and with the consent and upon the address of a majority of all the members of the Town Council, remove from office any person appointed by him or any of his predecessors. The person against whom the Council may be about to proceed shall receive five (5) days' written notice thereof, accompanied by a statement of the cause alleged for the removal and shall be accorded a full and fair hearing, if such a request is received by the Mayor by certified mail with return receipt requested within ten (10) days following the date that notice of removal is received by such person.
- (C) The Mayor may appoint such other committees as he deems necessary for the proper administration of The Town of Dagsboro or the Council may, by resolution, authorize the Mayor to appoint certain committees which are deemed necessary to carry out the provisions of this Act.
- (D) It shall be the duty of the Vice-Mayor of the Town Council, in the absence of or inability of the Mayor to act, to preside at all meetings of the Town Council and to perform such other duties and to have such other powers of the Mayor as are prescribed by the Charter of The Town of Dagsboro or by any ordinance of the Town Council.

**Section 16. Secretary**

- (A) The Secretary shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. He shall keep a full and complete record of all the transactions in The Town of Dagsboro. He shall be a voting member of all committees and shall keep a record of the transactions and proceedings of the same, together with such other duties as may be prescribed by this Charter or by ordinances or rule of the Town Council of The Town of Dagsboro. He shall file and keep in a safe place the seal of The Town of Dagsboro and all papers and documents arising out of the proceedings of the Town Council of The Town of Dagsboro relative to the affairs of the Town. He shall deliver the same to his successor in office. He shall attest the seal of The Town of Dagsboro when authorized by the Town Council and shall perform such other duties and have such other powers as may be prescribed by ordinance.
- (B) All books, records and journals of The Town of Dagsboro in the custody of the Secretary may, in the presence of the Mayor, Vice-Mayor, Secretary, Assistant Secretary, or any member of the Town Council of The Town of Dagsboro be inspected by any registered voter of the Town desiring legitimate information at any time, or times, as may be convenient and will not interfere with the regular routine of the business of the Town.
- (C) All books, records, papers and documents in the custody of the Secretary shall be open for inspection by members of the Town Council of The Town of Dagsboro.

(D) Compensation, if any, of the Secretary for his duties, shall be determined by the Town Council.

**Section 17. Assistant Secretary**

The duties and powers of the Secretary as hereinbefore prescribed shall devolve upon the Assistant Secretary in the absence or inability of the Secretary. The Assistant Secretary shall likewise perform such other duties and have such other powers as may be prescribed by Resolution to the Town Council of The Town of Dagsboro and shall receive such compensation as the Town Council by Resolution shall determine.

**Section 18. Town Administrator**

The Mayor of the Town of Dagsboro, with the concurrence of the majority of all of the elected members of the Town Council, may appoint a Town Administrator at such duties and for such duties, terms and for such compensation as shall be determined by the Town Council. (75 Del. Laws, c. 154, 7/12/05)

**Section 19. Town Solicitor**

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

**Section 20. Board of Health**

- (A) The Board of Health may consist of four (4) members, one of whom shall be a practicing physician. The Board shall be appointed by the Mayor of The Town of Dagsboro with the advice and consent of a majority of the elected members of the Town Council at the annual meeting hereinbefore provided, and shall serve for one (1) year or until their successors are duly appointed and qualified. The Board of Health shall have cognizance of an interest in the life and health of the people of the Town. The Board shall report to the Town Council in writing whatever is deemed by the Board to be injurious to the health of the people of the Town and shall make recommendations to the Town Council concerning whatever may contribute to the health and sanitation of the citizens of The Town of Dagsboro. The Board shall organize by the election of a Chairman and Secretary within ten (10) days after notice of their appointment and shall keep a record of their proceedings and acts. The Secretary shall be the executive officer of the Board.
- (B) The Secretary of the Board may be allowed a reasonable annual compensation for his services, which shall be determined by the Town Council and no other compensation shall be paid to the Secretary for his services as such. The Secretary may or may not be a member of the Board of Health appointed by the Mayor, but he shall be a resident of The Town of Dagsboro.
- (C) The Board of Health shall have the power to recommend the adoption of Ordinances relating to the health of the population of the Town or to prevent the introduction or spread of infections or contagious diseases or nuisances affecting the same and such Ordinances, when adopted by the Town Council, shall extend to an area outside the Town limits for a distance of one (1) mile.

**Section 21. Police Force**

- (A) The Town Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the police force. The 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. The police force shall have such other duties as the Town Council shall, from time to time, prescribe. The Chief of Police shall be appointed by the Mayor at the Annual Meeting for a term of one (1) year or until his

- successor shall be appointed, by and with the advice and consent of a majority of all the elected members of the Town Council and at such compensation as shall be determined by the Town Council. All members of the police force shall be paid such compensation as shall be determined by the Town Council.
- (B) Each member of the police force shall have police powers and shall be conservators of the peace throughout The Town of Dagsboro, and they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. They shall compel the enforcement of all laws enacted by the Town Council of The Town of Dagsboro. 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 Dagsboro.
- (C) It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in the streets of the Town or the noisy conduct of any person in the same, and upon the view of the above or upon view of the violation of any ordinance of the Town relating to peace and good order thereof, the police force shall have the right and power to arrest without warrant.

**Section 22. Annual Audit**

At the Annual Meeting hereinbefore provided, the Mayor, with the advice and consent of a majority of the elected members of the Town Council, may appoint an accountant to be the auditor of accounts of The Town of Dagsboro. It shall be the duty of the auditor to audit the accounts of the Town and all its officers whose duty involves the collection, custody and payment of moneys to the Town. The auditor shall audit the books of the Alderman and the Assistant Alderman of The Town of Dagsboro, the records of all fines, penalties, costs imposed or collected by him pursuant to any judgment, order or decree made. The auditor shall, on or before the expiration of ninety (90) days from the end of the fiscal year, annually make and deliver a detailed report of any and all accounts, records, and books by them examined and audited which report under his hand and seal shall be printed in a newspaper having a general circulation in the Town in the issue immediately preceding the annual report. The auditor, in the performance of his duties, shall have access to all records and accounts of the offices of the Town Council and he is hereby authorized and empowered to employ such clerks as in his judgment may be necessary in the proper performance of his duties.

**Section 23. Tax Assessor**

- (A) The Mayor shall appoint a Tax Assessor with the advice and consent of a majority of all the elected members of the Town Council for an indefinite term.
- (B) The Tax Assessor shall be sworn or affirmed by the Mayor of The Town of Dagsboro or by a Notary Public to perform his duties with fidelity and without favor. It shall be his duty to make a fair and impartial assessment of property and persons subject to taxation situate within the corporate limits of the Town and to perform such other duties and reference thereto as shall be prescribed from time to time by the Town Council of The Town of Dagsboro. Compensation to be by him received for the performance of his duties shall be fixed by and subject to the approval of the Town Council of The Town of Dagsboro.
- (C) In making such assessment, the rules and exemptions now applicable by law to the making of the assessment for Sussex County of persons and property shall be applicable insofar as consistent with the provisions of this Charter. The Tax Assessor may adopt the assessment of Sussex County for any or all property located within the corporate limits of The Town of Dagsboro.

**Section 24. Assessment Of Taxes**

The Tax Assessor shall, within ninety (90) days prior to the beginning of the next fiscal year, make a just, true and impartial annual valuation of all real property and improvements located thereon within The Town of Dagsboro. All real estate shall be described with sufficient particularity to be identified. Real estate shall be assessed to the owner or owners if he or they be known. If the owner or owners of real estate cannot be found or ascertained, it shall be assessed to "Owner Unknown." A mistake in the name of the owner or owners or a wrong name or an assessment to "Owner Unknown," shall not affect the

validity of the assessment of any municipal tax or assessment based thereon; provided, however, the assessment shall specify the last record owner or owners thereof as the same shall appear from the records in the Office of the Recorder of Deeds, in and for Sussex County. The Tax Assessor shall also make a personal assessment of all male and female citizens of the Town above the age of eighteen (18) years, whether an owner of real estate or not; said personal assessment shall be determined by the Town Council and certified to the Tax Assessor. Said personal assessment or per capita tax shall be in addition to the assessment levied on real estate owned or assessed by any person or persons whomsoever.

- (A) The Tax Assessor, after making such annual or other assessment, shall, at least ninety (90) days prior to the end of the fiscal year, deliver to the Town Council of The Town of Dagsboro a list containing the names of all persons assessed and the amount of assessment against each. He shall also deliver at such time as many copies of said list as the Town Council shall direct. (68 Del. Laws, c. 355, 7/10/92)
- (B) The annual or other assessment shall distinguish the real and personal assessment of each person and shall also be arranged so that the land, the improvements thereon, and the per capita assessment shall appear in separate columns or spaces. In making this assessment, the Tax Assessor shall make its valuation accordingly. (68 Del. Laws, c. 355, 7/10/92)
- (C) The real property of the Tax Assessor shall be assessed by the Town Council of The Town of Dagsboro.
- (D) Immediately upon receiving the annual or other assessment list from the Tax Assessor, the Town Council of The Town of Dagsboro shall cause a full and complete copy of the same, containing the amount assessed to each taxable to be hung in a public place in The Town of Dagsboro and there it shall remain for a period of at least ten (10) days for the information or an examination by all concerned. Appended thereto and also in five (5) or more public places in said Town shall be posted notices advertising to all concerned that, upon a certain day mentioned therein and not earlier than ten (10) days after the date of posting of the true and correct copy of the annual assessment list and notices, at the next regular meeting of the Town Council, the Town Council will hold a court of appeals at which time and place they shall hear appeals from the said annual assessment. The decision of the Town Council sitting as the Board of Appeals shall be final and conclusive and said Town Council shall revise and complete said assessment at this sitting. No member of the Town Council shall sit upon his own appeal but the same shall be heard and determined by the other Councilmen. (68 Del. Laws, c. 355, 7/10/92)
- (E) The Tax Assessor shall be present on the day fixed for hearing appeals and shall furnish to the Town Council such information and answer such questions as the Town Council may require in respect to any assessment for which an appeal has been taken. The Town Council shall have the authority to enforce the attendance of the Tax Assessor by appropriate process.
- (F) The said tax assessor shall, at the option of Town Council, make a supplemental assessment list quarterly in each fiscal year. The first such supplemental assessment list shall be certified on July 1 of each year; the second on October 1 of each year; the third on January 1 of each year; and the fourth on April 1 of each year.
- (G)
  - (1) In addition to the annual assessment provided for herein, the Town Council may, at its option, direct the tax assessor to prepare a quarterly supplemental list for the purpose of adding property not included on the last assessment or increasing the assessed value of property which was included on the last assessment. The supplemental list may be used to correct errors on the prior assessment rolls and to remove or modify any exemption from taxation applicable to the property in the Town.
  - (2) Such supplemental list shall be prepared quarterly in each fiscal year. The first such supplemental list shall be certified on July 1 of each year; the second on October 1 of each year; the third on January 1 of each year; and the fourth on April 1 of each year.
  - (3) On the date of certification of a supplemental list, the property owners listed thereon shall be liable to pay taxes equal to the assessed value of the property multiplied by the tax rates for the then current fiscal year applicable to the property, reduced by 25% where the property is listed on the second supplemental assessment roll; by 50% where the property is listed on the third assessment roll; and by 75% where the property is listed on the fourth

supplemental assessment roll; and the amount of such tax shall be and remain a lien on such property from the time of its certification.

- (4) Appeals shall be made to the Board of Appeals as provided in Section 24(D). In no case shall the supplemental assessment procedure be employed to impose taxes retroactively. (68 Del. Laws, c. 355, 7/10/92)

### **Section 25. Levy Of Annual Taxes, Fees And Other Charges**

- (A) At the first regular meeting in the last month of the fiscal year, after having revised and completed the assessment, the Town Council shall determine, in its best judgment and knowledge, the total amount necessary to be raised by the Town to meet the fixed and anticipated expenses and obligations of the Town, including reasonable and appropriate reserves, for the then current fiscal year as set forth in the Town Budget for such year plus a reasonable amount to cover anticipated expenses and emergencies.
- (B) The Town Council should then proceed to determine, in its sole discretion, from which sources of the authorized revenues of the Town the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect to any such source, the amount to be raised from each such source. They shall then proceed to determine, assess, fix and/or levy as follows:
- (1) The rate of tax on real estate including improvements thereon per One Hundred Dollars (\$100.00) of the assessed value; and/or
  - (2) The amount of personal or per capita tax upon each citizen of the Town over the age of eighteen (18) years; and/or
  - (3) The rate of tax upon all poles, construction, erections, wires and appliances more particularly mentioned, or intended so to be in Section 29 of this Charter as amended; and/or
  - (4) The several license fees to be charged for carrying on or conducting of the several businesses, professions or occupations more particularly mentioned or intended so to be in Section 29 of this Charter, as amended; and/or
  - (5) The several rates to be charged for furnishing water service, sewer service, electric service, gas service, front footage assessment, other services authorized by Town Council; and/or
  - (6) Appropriate transfer taxes to be charged upon the transfer of real property, or any interest in real property, situate within the corporate limits of the Town, provided however, that no tax levied under this section shall exceed one percent (1%) of the sales price (including the value of any assumed mortgage or mortgages) or fair market value of the real property so transferred; and provided further, that no tax shall be levied upon an organization exempted from ad valorem real estate taxes; and/or
  - (7) The fees or rates to be charged in respect to any other authorized source of revenue sufficient in their judgment and estimation to realize the amount to be raised from each such source determined by them to be used as aforesaid; provided, however, that sources (4), (5), (6) and (7) aforementioned may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and at any regular or special meeting of the Town Council as the Town Council, in its proper discretion, shall determine.
- (C) Immediately after the last regular meeting prior to the end of the fiscal year of each and every year, the Town Council shall make, or cause to be made, a full, true and correct Annual Tax List showing the amount of tax levied against each taxable thereon from sources (1), (2) and (3) above? mentioned. This list shall be known as the Annual Tax List of The Town of Dagsboro. In addition to the information contained in the assessment list, it shall also contain information as to the rate of tax upon real estate for each One Hundred Dollars (\$100.00) of assessed valuation thereof.
- (D) The Town Council shall cause to be delivered to the Town Clerk a duplicate of said Annual Tax List and the Tax Collector shall immediately proceed to collect the same as hereinafter provided.

- (E) The total amount of money, to be raised by real property taxes (Section 25(b)(1)), utility fixture taxes (Section 25(b)(2)), and special taxes levied or imposed in connection with any municipal bond (Section 32(a)) shall in no year exceed twenty-five percent (25%) of the total assessed valuation of all taxable real estate and improvements thereon in the Town.
- (F) Nothing contained in this Charter shall be construed to affect or impair in any way the validity of any tax, fee, assessment or other charge lawfully levied, assessed or due The Town of Dagsboro under the existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in The Town of Dagsboro created hereby.

**Section 26. Collection Of Annual Taxes**

- (A) The Tax Collector, as soon as the Town Council shall have placed in his hands a duplicate Annual or other Tax List, shall proceed at once to collect the taxes on said duplicate list. (68 **Del. Laws**, c. 355, 7/10/92)
- (B) All taxes so laid or imposed by The Town of Dagsboro in such Annual or other Tax List shall be and constitute a lien upon all the real estate of the taxable for a period of ten (10) years against or upon whom such taxes are laid or imposed, of which such taxable was seized or possessed at any time after such taxes shall have been levied and imposed that is situate within The Town of Dagsboro. Such lien shall have preference and priority to all other liens on such real estate, as aforesaid, created or suffered by the said taxable, although such lien or liens be of a time and date prior to the time of the attaching of such lien for taxes. (68 **Del. Laws**, c. 355, 7/10/92)
- (C) All taxes, when and as collected by the Tax Collector, shall be paid to The Town of Dagsboro, and all taxes shall be due and payable at and from the time of the delivery of the Annual or other Tax List to the Town Administrator. (68 **Del. Laws**, c. 355, 7/10/92)
- (D) All taxes shall be payable at the Office of the Tax Collector during the regular business hours of that Office.
- (E) On all taxes unpaid after thirty (30) days following the delivery of the duplicate Annual or other Tax List to the Tax Collector there shall be added a penalty of Five Percent (5%) for each month or fraction thereof such taxes shall remain unpaid and said penalty shall be collected in the same manner as the original amount of the tax. The Town Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid on such date as specified by ordinance shall be considered delinquent. In effecting a collection of delinquent tax, the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any penalty imposed thereon. (68 **Del. Laws**, c. 355, 7/10/92)
- (F) At the annual meeting of the Town Council of each year, the Tax Collector shall account to the Town Council for all taxes and sewer rentals collected by him during the year and shall be liable on his bond for failure to account for any uncollected taxes or sewer rentals unless he can show to the satisfaction of the Town Council that all remedies permitted for the collection of said taxes were pursued without result or, if not pursued, the remedies would have been without avail.
- (G) The Tax Collector, when any tax has become delinquent, may, in the name of The Town of Dagsboro, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Sussex County, or in the Superior Court of the State of Delaware, in and for Sussex County, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of executions in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas, or in the Superior Court, as the case may be.
- (H) However, should the Tax Collector so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure at the direction of the Town Council:

- (1) The Tax Collector shall present in the name of The Town of Dagsboro to the Superior Court of the State of Delaware in and for Sussex County, a petition in which shall be stated:
  - (a) The name of the taxable;
  - (b) The year for which the tax was levied;
  - (c) The rate of tax;
  - (d) The total amount due;
  - (e) The date from which interest and the penalty for nonpayment shall commence and the rate of such interest and penalty and any collection charge permitted;
  - (f) A reasonable, precise description of the lands and tenements proposed to be sold;
  - (g) A statement that the bill of said tax has been mailed to the taxable at his last known post office address with return receipt requested by certified mail and postage prepaid.
  - (h) That it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the Secretary of Town Council and shall be verified before a Notary Public.
- (2) At least ten (10) days prior to the filing of any such petition as described herein, the Secretary of Town Council shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at his last known address, requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties, collection charges, and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The Secretary of Town Council shall exhibit the return registry receipt to the Court by filing the same with the petition; provided, however, that if the taxpayer cannot be found, it shall be sufficient for the Secretary of Town Council to file with said petition the evidence that such statement has been mailed in accordance with this Subsection and has been returned.
- (3) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court, in and for Sussex County, and shall endorse upon the said record of said petition the following: This petition, filed the \_\_\_\_ day of \_\_\_\_, A.D. \_\_\_\_, and the Secretary of the Town Council of The Town of Dagsboro, is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." This endorsement shall be signed by the Prothonotary.
- (4) Any sale of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in The Town of Dagsboro, one of said public places shall be the Town Office and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the day fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.
- (5) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Sussex County, at the next term thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the Tax Collector making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.
- (6) No sale shall be approved by the Superior Court if the owner be ready at court to pay the taxes, penalty, collection fees and costs. No deed shall be made until the expiration of one (1) year from the date of the sale within which time the owner, his heirs, executors, or assigns, shall have the power to redeem the lands on payment to the purchaser, his



personal representatives or assigns, the costs, the amount of the purchase price, and twenty percent (20%) interest thereon and the expense of having the deed prepared.

- (7) After satisfying the tax due and the costs of expense of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land. Upon the refusal of the said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in Sussex County, either to the credit of the owner or in a manner in which the fund may be identified.
  - (8) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed to be deducted from the proceeds of the sale or chargeable against the owner, as the case may be:
    - (a) To the Prothonotary for filing and recording the petition;
    - (b) For filing and recording the return of sale;
    - (c) To the Tax Collector for preparing the Certificate; for making the sale of lands; for preparing and filing a return; for posting sale bills. In addition, the costs of printing handbills, the publication of the advertisement of sale in a newspaper, and the auctioneer's fee shall be chargeable as costs. The costs of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer. The total of any Delaware transfer tax shall be paid by the purchaser of said lands at the tax sale;
    - (d) Attorneys' fees.
  - (9) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.
  - (10) If any person is assessed for several parcels land and tenements in the same assessment in The Town of Dagsboro, the total of said taxes may be collected from the sale of any part or portion of said lands and tenements, provided that the land alienated by the delinquent taxpayer shall not be sold until other property of the taxpayer shall have been disposed of and there still remains a delinquency.
  - (11) In the event of death, resignation or removal from office of the Tax Collector of The Town of Dagsboro before the proceedings for the sale of lands shall have been completed, his successor in office shall succeed to all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise, may refer to the Superior Court of the State of Delaware, in and for Sussex County, a petition representing the facts and praying for an order authorizing and requiring the Tax Collector to execute and acknowledge a deed conveying to the petitioner the premises so sold or a just portion thereof; and thereupon the court may make such order touching the conveyance of the premises as shall be according to justice and equity.
  - (12) The Tax Collector shall have the same right to require the aid or assistance of any person or persons in the performance of his duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.
    - (a) In addition to all other remedies, methods and authorities for the collection of taxes, the Tax Collector may use the monition method for the collection of such taxes and authority is hereby established for him to do so.
- (I) The Tax Collector may file a praecipe in the Office of the Prothonotary, in and for Sussex County.
- (1) The praecipe so filed shall contain the following information:
  - (2) The name of the taxpayer or taxpayers against whom the taxes sought to be collected were assessed;
    - (a) The amount of taxes due and the year or years for which such taxes are due and payable;
    - (b) The description of the property sufficient to identify it;

- (d) The date from which the penalty and interest accrues and the percentage of such penalty and interest and the amount due as of the date of the filing of the praecipe;
  - (e) Any collection charge shown as a percentage of the tax and penalty and the amount due as of the date of the filing of the praecipe.
- (3) Following the filing of the praecipe, the Prothonotary shall make a record of the same on a special judgment docket of the Superior Court against the taxpayer or taxpayers named in such praecipe which record shall consist of the following information:
- (a) The name of the taxpayer or taxpayers in whose name the assessment was made;
  - (b) The description of the property sufficient to identify it;
  - (c) The year or years for which such taxes are due and payable;
  - (d) The date of the filing of the praecipe;
  - (e) The amount of the judgment being the total amount of taxes due, the total amount of all interest and penalties, and the amount of any collection charges;
  - (f) The judgment shall be indexed in the judgment docket in the name of The Town of Dagsboro and in the name of the taxpayer or taxpayers, as the case may be;
  - (g) Thereupon, a monition shall be issued by the Prothonotary to the Sheriff of Sussex County, which monition shall state the amount of the judgment for the taxes, penalty, interest and collection charges, together with a description of the property sufficient to identify it;
  - (h) The monition shall be in substantially the following form: To all persons having or claiming to have any title, interest or lien upon the within described premises, take warning that unless the judgment for the taxes or assessment stated herein is paid within twenty (20) days after the date hereof or within such period of twenty (20) days, evidence of the payment of the taxes, penalties, interest and collection charges herein claimed shall be filed in the Office of the Prothonotary, in and for Sussex County, which evidence shall be in the form of a receipted tax bill or duplicate thereof, bearing date prior to the filing of the lien in the Office of the Prothonotary, in and for Sussex County, the Tax Collector of The Town of Dagsboro may proceed to sell the property herein mentioned for the purpose of collecting the judgment for taxes, assessments, penalties, interest, collection charges herein stated.

Name of Taxpayer Taxpayers	Description of Property	Year or Years	Amount of Judgment
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- (i) The monition or a copy thereof shall be posted by the Sheriff of Sussex County upon some prominent place or part of the property against which the judgment for the taxes or assessments are a lien and the Sheriff of Sussex County shall make a due and proper return of his proceedings under the monition to the Prothonotary, in and for Sussex County within ten (10) days after the posting of the monition. Alias or pluries monition may issue upon like praecipe. The posting of the notice by the Sheriff of Sussex County as herein required shall constitute notice to the taxpayer or taxpayers and to all other persons having any interest in the property.
- (j) At any time after the expiration of twenty (20) days next following the return of the Sheriff of Sussex County upon the monition, unless before the expiration of twenty (20) days, the judgment and all costs on the judgment have been paid or evidence of the payment of such taxes, penalties and collection charges evidenced by a receipted bill or a duplicate thereof bearing date thereof prior to the filing of the lien for record in the Office of the Prothonotary, in and for Sussex County, directed to the Sheriff of Sussex County to sell the property mentioned or described in the

writ and make due return of his proceedings thereunder in the same manner as is applicable to similar writs of venditioni exponas issued out of the Superior Court of the State of Delaware, in and for Sussex County. The property shall be described in the writ under the description thereof as it appears on the assessment records and by metes and bounds where obtainable, but nothing herein contained shall be construed to invalidate a writ or a sale pursuant thereto containing only the description as it appears on the assessment rolls or a writ bearing only a description by metes and bounds.

(k) The writ shall be in substantially the following form:

SUSSEX COUNTY, SS  
THE STATE OF DELAWARE

TO THE SHERIFF OF SUSSEX COUNTY,

GREETINGS:

WHEREAS, by a Monition issued out of the Superior Court dated at Georgetown, the \_\_\_\_ day of \_\_\_\_, A.D. \_\_\_\_, IT WAS COMMANDED that you should post the said Monition or copy thereof upon the real estate therein mentioned and described, and make a return to said Superior Court within ten (10) days after said posting. That on the \_\_\_\_ day of \_\_\_\_, A.D. \_\_\_\_, you returned that a copy of said Monition was posted on the real estate therein mentioned and described on the \_\_\_\_ day of \_\_\_\_, A.D.

We therefore now command you to expose to public sale the real estate mentioned and described in said Monition as follows: \_\_\_\_ and that you should cause to be made as well a certain debt of Dollars, lawful money of the United States, which to the Tax Collector of The Town of Dagsboro is due and owing as also the sum of \_\_\_\_ Dollars, lawful money, as aforesaid, for his costs which he has sustained by the detaining of that debt, whereof the said \_\_\_\_ was convicted as it appears of record and against which said property it is a lien.

And have you the money before the Judges of the Superior Court of the State of Delaware, in and for Sussex County, at Georgetown on Monday, the \_\_\_\_ day of \_\_\_\_, to render to the Tax Collector of The Town of Dagsboro, as aforesaid, for the debt and costs, as aforesaid, and this writ.

WITNESSETH, The Honorable \_\_\_\_ at Georgetown, the \_\_\_\_ day of \_\_\_\_, A.D. 19\_\_.

\_\_\_\_\_, Prothonotary

Issued:

- (l) The description contained in such Monition shall be a sufficient description of the real estate to be sold under such writ.
- (4) Any real estate or interest therein sold under these provisions authorizing the use of the monition method shall vest in the purchaser all the right, title and interest of the taxpayer in whose name the property was assessed and/or all right, title and interest of all taxpayers who are the owners thereof, and likewise freed and discharged from any liens and encumbrances, dower or curtesy or statutory right, in the nature of a dower or curtesy, whether absolute or inchoate.
- (5) If the owner of the property or his legal representatives fail to redeem the property as provided for in this Section, the purchaser of the property or his legal representatives, successors or assigns, may present a petition to the Superior Court of the State of Delaware, in and for Sussex County, setting forth the appropriate facts in conformity with these provisions authorizing the monition method and pray that the Superior Court of the

State of Delaware, in and for Sussex County, make an Order directing the Sheriff, then in office, to execute, acknowledge and deliver a deed conveying the title to the property to the petitioner; and thereupon the Superior Court of the State of Delaware, in and for Sussex County, shall have the power, after a hearing upon the petition, to issue an Order directing the Sheriff to execute, acknowledge and deliver a deed as prayed for in the petition. A description of the property as the same shall appear upon the assessment rolls and a description by metes and bounds, where obtainable, shall be a sufficient description in any such deed.

- (6) The owner of any such real estate sold under the monition method or his legal representatives, may redeem the same at any time within sixty (60) days from the date the sale thereof is approved by the Court, by paying to the purchaser or his legal representatives, successors or assigns, the amount of the purchase price and fifteen percent (15%) in addition thereto, together with all costs incurred in the cause; or if the purchaser or his legal representative, successors or assigns, refuse to receive the same, or do not reside or cannot be found within Sussex County, by paying the amount into the Court for the use of the purchase, his legal representatives or assigns.
- (7) If the owner of any real estate sold under an order of sale or his legal representatives redeems the real estate, he may present to the Superior Court of the State of Delaware, in and for Sussex County, a petition setting forth the facts and thereupon the Superior Court of the State of Delaware, in and for Sussex County, after hearing and determining the facts set forth in the petition, shall have the power to cause to be entered upon the record of the judgment, under which the real estate was sold, a memorandum that the real estate described in the proceedings upon which the judgment was entered has been redeemed. Thereafter, the owner shall hold such redeemed real estate subject to the same liens and in the same order of priority as they existed at the time of the sale thereof, excepting so far as the liens have been discharged or reduced by the application of the proceeds by the Sheriff from the sale.
- (8) Upon the return of the proceedings under a writ of venditioni exponas, the Superior Court of the State of Delaware, in and for Sussex County, may inquire into the regularity of the proceedings thereunder, and either approve the sale or set it aside.
- (9) No proceeding shall be brought by the Tax Collector of The Town of Dagsboro under the monition method unless the tax or assessments sought to be collected hereunder shall at the time of the praecipe in the Office of the Prothonotary, in and for Sussex County, be and constitute a lien upon the property against which the tax or assessment was assessed or laid.
- (10) Whenever the Superior Court of the State of Delaware, in and for Sussex County, is mentioned in this Section authorizing the monition method, the same shall be held to embrace the Judges or any Judge thereof, and any act required or authorized to be done may be done by the Superior Court of the State of Delaware, in and for Sussex County, or any Judge of the Superior Court of the State of Delaware in vacation thereof, as well as in term time.
- (11) Fees and costs to be taxed in all proceedings pursuant to the use of the monition method, where not otherwise provided for, shall be provided by the Office of the Prothonotary and the Office of the Sheriff of Sussex County:
  - (a) The following fees shall be charged by the Prothonotary:
    - Filing praecipe
    - Issuing monition and copy
    - Issuing alias or pluries, monition and copy
    - Writ of venditioni exponas
    - Filing any petition in the Superior Court
    - Costs of paying money in the Superior Court
    - Costs of paying money out of Superior Court for each check drawn
  - (b) The following fees shall be charged by the Sheriff:

Posting monition or copy thereof

Posting each alias or pluries, monition or copy thereof

- (c) The following fees shall be charged by the Tax Collector of The Town of Dagsboro:

For preparing description by metes and bounds of liened property

- (12) All of the charges not covered by these provisions shall be the same as are provided by law.

### **Section 27. Town Budget**

- (A) The fiscal year for The Town of Dagsboro shall be as determined by Resolution of the Town Council.
- (B) Annually each year and not later than sixty (60) days prior to the beginning of the next fiscal year, the Treasurer of The Town of Dagsboro shall prepare a rough draft of the Town Budget. From this rough draft, the Town Council shall, not later than the regular meeting following the presentation of the rough draft prepared of the Town Budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year, adopt the budget.
- (C) The budget shall contain the following information:
- (1) An estimate showing the expenses for conducting the affairs of the Town for the ensuing fiscal year;
  - (2) The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof;
  - (3) The amount of the debt of the Town, together with the schedule of maturities of bond issues;
  - (4) An itemized statement of all other estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;
  - (5) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds";
  - (6) An estimate of the amount of money to be received from taxes, water rents, sewer service charges, front footage assessments, license fees and all other anticipated income of the Town from any source or sources whatsoever.
- (D) The Town Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

### **Section 28. Enumeration Of Powers**

Not by way of limitation upon the power vested in the Town Council of The Town of Dagsboro to exercise all powers delegated by this Charter to the municipal corporation or to the Town Council 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 the Charter with the following powers, to be exercised by the Town Council in the interest of good government and the safety, health and public welfare of the Town, its inhabitants and affairs, that is to say:

- (A) To prevent vice, drunkenness and immorality.
- (B) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants.
- (C) To prohibit all gaming and fraudulent devices.
- (D) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games.
- (E) To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair or replace any new or present street, highway, lane, alley water course, park, lake, crosswalk, sewer, drain, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb or gutter or

- portion thereof in the Town; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; to enter into contracts or agreement for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of the street, lane, alley, roadway or other public thoroughfare within the Town.
- (F) To regulate or control the observance of the Sabbath Day.
  - (G) To establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same.
  - (H) To locate, regulate, license, restrain or require the removal of slaughter houses, wash houses, laundries, canning establishments, phosphate, fish, fertilizer and manure plants or establishments, swine pens, privies, water closets in any businesses or buildings or conditions detrimental to the public health or constituting a public nuisance or of an offensive or a noxious nature.
  - (I) To enforce the removal of ice, snow or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners.
  - (J) To prohibit, remove or regulate the erection of any stoop, step, platform, bay window, cellar, gate, area, descent, sign, post or any other erection or projection in, over, upon or under any street, highway, alley, lane, water course, park, lake, sidewalk, crosswalk, sewer, drain, aqueduct or pipeline of the Town.
  - (K) To define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare.
  - (L) To provide an ample supply of pure water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in or about the collection, storage, purification, conveyance, or distribution or sale of water; to regulate and prescribe for what public or private purposes the water furnished by The Town of Dagsboro 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; to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the municipality itself.
  - (M) To provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town; to regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with, the said system, plan or facilities. To furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits. In the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the Town itself.
  - (N) To provide, construct, extend, maintain, manage and control the plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for lighting the streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, wharfs, docks, public buildings or other public places in the Town and to this end, to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessarily proper to light the Town, and to furnish proper connections for electric current and gas to the

- properties of the inhabitants of the Town who may desire the same; to regulate and prescribe for what private or public purposes the current or gas furnished by the Town may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any willful or negligent injury or damage to or interference with the electric or gas system or systems of the Town; to furnish or refuse to furnish electric current or gas from the Town's system or systems to places and properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness by the Town itself.
- (O) To fully control within the Town the drainage of all water and to that end to alter or change the course and direction of any natural water course, runs and rivulet within the Town, to regulate, maintain, clean and keep the same open, cleaned and unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town.
- (P) To provide, construct, extend, maintain, manage and control embankments, or fills for the preservation of any high land within the limits of the Town and contiguous thereto to the end that the same may be preserved, properly protected and that the general public might enjoy the use thereof.
- (Q) To grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such consideration of the Town Council shall deem in the best interest of the municipality, to use the present and future streets, highway, lanes, alleys, water courses, parks, lakes, sidewalks, crosswalks, and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, railroad (excepting railroads or railways engaged in Interstate Commerce), bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof, and for the purpose of vending any article of merchandise or service upon or from any vehicle upon any present and future street, highway, lane, alley, etc.; provided that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever.
- (R) To regulate and control the exercise of any license or franchise mentioned in Section 29 of this Charter, or intended so to be.
- (S) To direct, regulate and control the planning, rearing, treatment and preserving of ornamental shade trees in the streets, avenues, highway, parks and grounds of the Town and to authorize or prohibit the removal or destruction of said trees.
- (T) To direct the digging down, draining, fill up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter.
- (U) To provide for or regulate the numbering of houses and lots on the streets and the naming of streets and avenues.
- (V) To regulate, control or prevent the use or storage of gun powder, fireworks, tar, pitch, resin, and all other combustible materials and the use of candles, lamps, and other lights in stores, shops, stables and other places; to suppress, remove or secure any fireplace, stove, chimney, oven, broiler, or other apparatus which may be dangerous in causing fires.
- (W) For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the manner of building or removal of dwelling houses and other buildings; to establish a Code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material; and, generally, to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22, Del. C. of 1974, and all amendments heretofore or hereafter adopted.

- (X) To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town which shall be used as a place of detention for persons convicted of violations of law or ordinance, or for detention of persons accused of violations of law or ordinances, for a reasonable time in cases of necessity prior to hearing and trial; and to provide for the restraint, support and employment of paupers, beggars and vagrants; provided that any correctional institution located in Sussex County may be used for any such purpose.
- (Y) To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town.
- (Z) To regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, bean shooters, and any other devices for discharging missiles which may cause bodily injury or injury or harm to property; and to regulate or prevent the use of fireworks, bombs and detonating works of all kinds.
- (AA) To provide for the punishment of a violation of any ordinance of the Town by fine or imprisonment, or both, not exceeding Five Hundred Dollars (\$500.00) or sixty (60) days or both.
- (BB) To provide for the organization of a fire department, ambulance, rescue or paramedic services, and the control and government thereof; to establish fire limits and to do all things necessary for the prevention or extinguishment of fires; and, at the discretion of the Town Council, to contribute, donate or give an amount or amounts not to exceed in the total during any fiscal year three percent (3%) of the total taxes levied on real estate unto any volunteer fire company or companies, ambulance, rescue, or paramedic services incorporated under the laws of the State of Delaware, or any volunteer fire association or, associations, or ambulance, rescue or paramedic services maintaining and operating fire fighting, ambulance, rescue, or paramedic equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable.
- (CC) To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, charge growing out of the abatement of nuisances and the like, laying out and repairing sidewalks, curbs or gutters, or other charges due the Town and to sell the same.
- (DD) To raise revenue by levying and collecting taxes for any and all municipal purposes upon all real estate and improvements located thereon, taxes on business activities, special assessments, licensing fees and other charges for services.
- (EE) To levy and collect a personal or per capita tax upon all persons resident within the corporate limits of The Town of Dagsboro to be used for any and all municipal purposes.
- (FF) To levy and collect taxes upon all telephone, telegraph, power poles pipelines, rail lines or other constructions or erections of a like character, erected within the limits of the Town, together with the wire or other appliances thereto or therein attached; expressly excepting all telephone, telegraph, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in Interstate Commerce for any and all purposes and to this end may at any time direct the same to be included in or added to the Town assessment. In case the owner or lessee or such constructions or erections, wires or other appliances shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies provided for the collection thereof set forth in Section 26 of this Charter, the Town Council shall have the authority to cause the same to be removed.
- (GG) To license, tax and collect fees annually for any and all municipal purposes (including the cost and expense of advertising the Town) of such various amounts as the Town Council from time to time shall fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of the Town; provided, however, that nothing contained herein shall be so construed as to make it mandatory upon any resident of the State to apply for a license in order to sell in the Town any farm produce or products grown upon a farm owned by the vendor or any member of his family with whom he resides.
- (HH) To determine from which authorized source and in what proportion taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the



- Town and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness.
- (II) To provide for the collection of and disbursement of all moneys to which the Town may become entitled by law, including licenses and fines where no provision for the collection and disbursement thereof is otherwise provided in this Charter.
- (JJ) To borrow money in the name of the Town for any proper municipal purpose and in order to secure the payment of the same to issue bonds or other forms or kinds of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Town Council shall select for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all state, county or municipal taxes.
- (KK) To acquire, and/or to vacate the use of lands, tenements, personal property, easements, rights of way, or any interest in property, either within or without the limits of the Town, by way of condemnation and eminent domain for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred upon or delegated to The Town of Dagsboro by this Charter. Proceedings by way of condemnation in any case shall be as prescribed in Chapter 61, Title 10, Del. C. of 1974, as heretofore or hereafter amended.
- (LL) To appropriate money to pay the debts liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereat, and to transfer temporarily money from one fund to another fund of the Town in case of emergency.
- (MM) To provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge, or other amount due the Town by the performance of labor or service of the Town by any person owing the same.
- (NN) To inquire into and investigate the conduct of any officer, agent or officer of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena.
- (OO) To establish by ordinance duly adopted pursuant to this Charter a Pension Plan or a Health and Welfare Plan, or both, for the employees of the Town under such terms and conditions as the Town Council, in its discretion, may deem most appropriate, provided, however, that any annual appropriation which is made by the Town Council under any such Pension Plan or any Health and Welfare Plan, or both, shall not exceed a maximum of fifteen percent (15%) of the total annual payroll of the Town; and provided further, that the method of funding may, if deemed desirable by the Town Council, be accomplished through an insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of the elected members of the Town Council.
- (PP) To anticipate revenue by borrowing upon the faith and credit of the Town of Dagsboro the sum or sums of not exceeding ten percent (10%) of the assessed valuation of all real estate in the town in any one (1) fiscal year when, in the opinion of the majority of said Town Council, the needs of the Town of Dagsboro demand it. The Town Council may secure said sum or sums of money so borrowed by promissory notes of the town and attested by the Secretary, either with or without the corporate seal of the town of Dagsboro affixed as is requested by the bank or person advancing the money on said notes, and no officer or Council Person shall be personally liable for the payment of such notes because they are signed by them as officers of the town of Dagsboro and are authorized by resolution of the Town Council; provided, however, that any sum of money borrowed on the faith and credit of The Town of Dagsboro as aforesaid, in any fiscal year shall be paid out of the general funds of the town, at the minimum rate of ten per centum (10%) per fiscal year and shall be completely paid at the end of ten (10) fiscal years following the first fiscal year which said money was borrowed with interest thereon; and provided that such ad valorem taxes shall be levied as are required without regard to any other limitation concerning the maximum rate of taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof. (73 Del. Laws, c. 56, 6/18/01; 74 Del. Laws, c. 284, 6/29/04)

- (QQ)To have and use a corporate seal which may be altered, changed, or renewed at any time.
- (RR)To hold and acquire by gift, negotiation and purchase, devise, lease, or condemnation property both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee simple 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;
  - (4) sewer systems, including but not limited to sewage lines, conduits, sewage disposal or treatment plants, and all appurtenances thereto;
  - (5) water systems, including but not limited to, water plants, wells, lines, conduits and all appurtenances thereto;
  - (6) recreational facilities, including but not limited to public bathing beaches, gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddle ball courts and all appurtenances thereto;
  - (7) adequate municipal services for persons and other legal entities residing either within or beyond the corporate limits of the Town, to their mutual benefit and advantage, upon such terms, charges, and conditions as the Town Council may determine and approve;
  - (8) slum clearance and redevelopment, urban renewal, revitalization or rehabilitation of blighted areas or removal of dangerous buildings;
  - (9) protection services for the citizens of the Town to include, but not limited to, police, fire, rescue and paramedic support.
- (SS)To sell, grant, alienate, lease mortgage, manage, hold and control such property as the interests of the Town may require except as prohibited by the Constitution of Laws of the State of Delaware or as restricted by this Charter;
- (TT)To pay for the acquisition, construction, improvement, repair, extension, alteration or demolition of any Town property (real, personal or mixed) from the general fund of the Town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which lands and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the Town by any governmental entity of the United States or the State of Delaware where the proceeds of the grant or loan are for the purposes for which lands and premises are authorized by this Charter to be acquired;
- (UU)To provide, construct, extend, maintain, manage and control groins, bulkheads, embankments, rip rap, piers or fills for the preservation of any waterway, beach, strand or high land within the corporate limits of the 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;
- (VV)To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;
- (WW)To 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.
- (XX)To 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; and/or to contribute to the costs of operations of those volunteer fire companies and/or ambulance companies providing services within the town. (74 Del. Laws, c. 363, 7/19/04)
- (YY)To make, adopt and establish all such ordinances, regulations, rules and by-laws not contrary to the laws of the State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property, and of

the public health and welfare of the Town and its inhabitants; provided, however, that any ordinance relating to the public health of the Town and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same shall apply not only within the corporate limits of the Town but as well to all areas and persons outside the Town within one (1) mile from said limits.

**Section 29. Streets**

- (A) The Town Council shall have the power and authority to lay out, locate and open new streets or to widen and alter existing streets or parts thereof and to vacate or abandon streets or parts thereof, whenever the Town Council shall deem it for the best interest of the Town.
- (B) The procedure to be used for any of those things heretofore listed in this Section shall be as follows:
  - (1) Whenever five (5) or more property owners in a portion of the Town directly affected or abutting on the proposed street to be opened, laid out, changed, altered, widened, vacated or closed shall by written petition, with each signature duly acknowledged, request the Town Council to lay out, locate, or open a new street or to widen or alter any existing street or any part thereof or to vacate or abandon a street, or any part thereof, the Mayor of The Town of Dagsboro shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of changing the structure of said streets in the Town. The petition presented to the Council by the property owners shall include a description of the property through which the proposed street shall be laid out or description of the street on which any of the other actions heretofore described shall take place and the reasons why the change in the structure of the streets of the Town should be undertaken; or the Town Council, by a majority vote of the elected members thereof, may, by resolution, propose that a committee composed of not less than three (3) of its elected members be appointed by the Mayor to investigate the possibility of changing the street structure of the Town.
  - (2) Not later than ninety (90) days following its appointment, the committee shall submit a report concerning its findings to the Mayor and the Town Council. The report shall contain the advantages and disadvantages to the Town caused by the changes of the street structure and shall contain the conclusion of said committee either recommending or disapproving the change of said street structure. If the report of the committee appointed by the Mayor recommends changing the existing street structure of The Town of Dagsboro, the Town Council, by Resolution, passed by a majority of the elected members of the Town Council concurring therein, shall propose to the property owners and citizens of the Town that the Council proposes to change the street structure by opening a new street or by doing any of those things hereinbefore described to the existing street structure of the Town. If the report of the committee appointed by the Mayor is not in favor of changing the existing street structure of The Town of Dagsboro, the Resolution proposing the change in the street structure to the property owners and citizens of The Town of Dagsboro shall be passed by a majority of three-fourths (3/4) of the elected members of the Town Council. The Resolution shall contain a description of the proposed change and shall affix a time and place for a public hearing on the matter of changing the street structure. The Resolution adopted by the Town Council shall be printed in a newspaper having a general circulation in The Town of Dagsboro, or, in the discretion of the Town Council, the Resolution shall be posted in five (5) public places in the Town for at least one (1) week before the time set for the public hearing. The notice shall be published at least one (1) week prior to the date set for the said public hearing. The Resolution shall also state the hour and place where and when the Town Council shall sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property by the proposed change in the existing street structure of the Town.
  - (3) Whenever the Town Council shall have determined to locate or lay out or widen any street, lane or alley and shall have affixed compensation therefor, it shall be the duty of the Town Council immediately after the survey and location of said street, lane or alley, to notify by certified mail with return receipt requested and postage prepaid the owner or

owners of the real estate through or over whom such street, lane or alley may run of their determination to open or widen the same and to furnish a general description or location thereof; also the amount of compensation or damages allowed to reach such property owner, and if such owner be not a resident of the Town, to notify the holder or tenant of said real estate and the owner of such property if his address be known; that there be no holder or tenant resident in said Town and the address of the owner be unknown or if there is a holder or tenant and the address of the owner is unknown, the said notice may be affixed to any part of the premises. If the owner be dissatisfied with the amount of compensation or damages allowed by the Town, as aforesaid, said property owner may, within ten (10) days after such notice, as aforesaid, was posted or mailed, appeal from written notice of assessment or compensation or damages by serving written notice by certified mail with return receipt requested and postage prepaid, on the Mayor of the Town to the effect that he or she is dissatisfied with the amount of such compensation or damages, and that it is his or her intention to make written application to one of the Judges of the Superior Court of the State of Delaware in and for Sussex County, for the appointment of a commission to hear and determine the matter in controversy; and in order to prosecute such appeal, such owner shall, within fifteen (15) days after serving said notice upon the Mayor as aforesaid, make written application to said Judge of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of such a commission; and thereupon the said Judge shall issue and appoint a commission directed to five (5) freeholders of said county, three (3) of whom shall be residents of The Town of Dagsboro, and two (2) of whom shall be non-residents of said Town, requiring them to assess the damages which the owner of real estate through or over which the said street, lane or alley shall pass or who shall have suffered damage because of any other action taken by the Town pursuant to the provisions hereof and who shall have notified the said Town Council of their intention to appeal may incur by reason thereof and to make a return of their proceeding to the said Judge at the time therein appointed.

- (4) The freeholders named in such commission, being first duly sworn or affirmed, shall view the premises and may, or a majority of them, shall assess the damages, as aforesaid, and shall make return in writing of their proceedings to the said Judge who shall deliver and return to the Town Council their return which shall be final and conclusive. The said Judge shall have the power to fill any vacancy in the commission. The amount of damages being so ascertained, the Town Council may pay or tender the same to the person or persons entitled thereto within thirty (30) days after the same shall be finally ascertained or if the person or persons so entitled reside out of or are absent from the Town during the said period of thirty (30) days, then the same shall be deposited to his or her credit in any bank or trust company with offices, in Sussex County, Delaware, within said time and thereupon the said property or lands may be taken or occupied for the use as aforesaid.
- (5) If the ascertainment and assessment of damages by the freeholders appointed by the Judge, as aforesaid, shall be increased, the cost of the appeal shall be paid by the Town out of any money in the hands of the Treasurer of The Town of Dagsboro belonging to the Town, but if said damages shall not be increased, the cost of the appeal shall be paid by the party appealing. The said freeholder members of the commission shall receive and be entitled for each day's actual service or of any part of a day the sum of Five Dollars (\$5.00). After the damage shall be fixed and ascertained by the freeholders, the Town Council shall have the option to pay the damages assessed within the time aforesaid, and to proceed with the said improvements or, upon the payment of the costs only, may abandon the proposed improvements. In the event that either party feels that the damages assessed are not just as being excessive or inadequate, an appeal may then be prosecuted at the Supreme Court of the State of Delaware.
- (6) Whenever any street or part thereof vacated or abandoned under this Section be owned by the Town, the Town Council may, in its discretion, sell such land at public or private sale and for such consideration as the Town Council shall deem proper. The Town Council shall have the right and power to convey to the purchaser or purchasers thereof, a good and sufficient title thereto for whatever estate the Town may have therein.

- (7) The Town Council shall have full power and authority (1) to regrade, redress and otherwise repair and rebuild all existing streets in the Town; and (2) to reconstruct, rebuild, repave and in any manner improve all existing streets now open or to be hereafter opened for public use in the Town.
- (8) The Town Council, in exercising the authority granted by this Section, may use such materials and substances and such methods of construction and may employ such contractors, engineers, inspectors and other persons as the Town Council may deem necessary. To this end, the Town Council shall have full power and authority to enter into contracts or agreements with the State Highway Department of the State of Delaware for the permanent maintenance and repair of any street within the corporate limits of the Town.

### **Section 30. Curbing And Paving**

- (A) Whenever the Town Council shall have determined that any paving, graveling, curbing or any or all of them shall be done, it shall cause a notice to be sent to the owner or owners along or in front of whose premises the same is to be done, particularly designating the nature and character thereof and thereupon it shall be the duty of such owner or owners to cause such paving, graveling and/or curbing, or any of them, to be done in conformity with said notice. In the event any owner or owners neglect to comply with said notice for the space of thirty (30) days, the said Town Council may proceed to have the same done and when done, the Tax Collector shall, as soon as convenient thereafter, present to the owner or owners of such lands a bill showing expenses of such paving, graveling and curbing, or any of them. If such owner or owners be not resident in The Town of Dagsboro, such bills shall be sent by certified mail with postage prepaid or to such owner or owners directed to him, her or them at the last known address. If such bill be not paid by the owner or owners of such lands within sixty (60) days after the presentation thereof, as aforesaid, the Tax Collector shall proceed to collect the same in the same manner and under the same terms and conditions as are provided for the collection of delinquent taxes.
- (B) Any notice sent to one co-owner shall be notice to all owners and in the case that no owners shall reside in said Town, notice served as set forth herein or posted upon the premises shall be sufficient.
- (C) The provisions contained herein shall apply to any order made by the Town Council in respect to any pavement, sidewalk or curb heretofore made or done which the said Town Council may deem insufficient or need repairing.

### **Section 31. Subdivision And Land Development**

- (A) In order to provide for the orderly growth and development of the Town; to promote the health, safety, prosperity and general welfare of the present and future inhabitants and property owners in the Town; to insure the conservation of property values and natural resources, including the protection and beauty of the Town's open lands, water resources, beaches and recreational potential; and to afford adequate provisions for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the Town Council shall regulate the subdivision of all land in the Town. Such regulation may, through ordinance, include:
  - (1) procedures for insuring the processing of combining, partitioning, or land subdivision plans within a reasonable period of time, relative to the number of lots or parcels and the extent of improvement required;
  - (2) procedures for insuring that the arrangement of the lots or parcels of land or improvements thereon shall conform to the existing zoning at the time of recordation and that streets or rights-of-way bordering or within subdivided land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate prospective traffic; that adequate easements of rights-of-way shall be provided for drainage and utilities; that reservations of areas designed for their use as public grounds shall be of suitable monuments and signage shall be required; that land which might

- constitute a menace to safety, health or general welfare shall be made safe for the purpose for which it is subdivided; and that adequate provision for water supply is made;
- (3) procedures for encouraging and promoting flexibility and ingenuity in the layout and design of subdivisions and land development, and for encouraging practices which are in accordance with contemporary and evolving principles of site planning and development;
  - (4) requiring those persons subject to such regulation to provide, at their own expense, including verification, such municipal or public improvements which are specifically and uniquely attributable to the proposed land subdivision, combining, or partitioning, including by way of example and not in limitation, the paving of streets, installation of curbs, storm sewers, water lines, street signs, access roads, playgrounds, parks and open areas. In imposing such requirements, the Town Council may consider and take into account future as well as immediate needs, and potential as well as present population factors affecting the neighborhood in question;
  - (5) procedures for insuring that any improvements to be constructed on such lands are in compliance with all appropriate Town ordinances and that the placement and location of such improvements will not have a significant negative impact on adjoining properties;
  - (6) procedures for securing financial guarantees from the developers of such lands to insure satisfactory completion of all such required improvements, which may include extending the term of such guarantee for a reasonable period of time (not exceeding three (3) years) beyond the actual completion of such improvements by the developer or acceptance of such improvements by the Town Council.
- (B) In the event an ordinance of the Town so provides, no plat, plot or plan of land shall be received for filling or recording by the Recorder of Deeds in and for Sussex County unless and until such plat, plot or plan shall have been approved by the Town body so authorized to grant such approvals and the fact of such approvals shall have been endorsed in writing on such plan documents.

### **Section 32. Collection Of Charges Due The Town**

- (A) In the collection of any charges due the Town for water rentals, sewer service charges, electric bills, gas bills, license fees, tapping fees, front footage assessments, charges growing out of the abatement of nuisances, laying out and repairing paving, graveling, curbing, or any of them, any amount due the Town from a contract, such charges shall become a first lien against all real estate of the delinquent property owners and/or taxpayers situate within the Town and such charges shall have preference and priority for a period of ten (10) years from the date the charge became due and owing to all other liens on real estate created or suffered by the taxable and property owner, although such other lien or liens be of a date prior to the time for the attaching of such liens for such charges.
- (B) The remedies available to the Tax Collector for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

### **Section 33. Power To Borrow Money And Issue Bonds**

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

- (1) The Town Council by Resolution shall propose to the residents and property owners of the Town that the Town Council proposes to borrow a certain sum of money for any of the purposes above stated. The Resolution shall state the amount of money desired to be borrowed, which may be stated as a "not to exceed" amount, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan which are deemed pertinent by the Town Council and in their possession at the time and place for a hearing on the said Resolution.
- (2) Notice of the time and place of the hearing on the Resolution authorizing said loan shall be printed in a newspaper having a general circulation in the Town or distributed in circular form from at least one week before the time set for the public hearing.
- (3) Following the public hearing, a second Resolution shall then be passed by the Town Council ordering a Special Election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing to borrow the same money, the said Special Election to be for the purpose of voting for or against the proposed loan. The passing of the second Resolution calling a Special Election shall ipso facto be considered the determination of the Town Council to proceed with the matter in issue.
- (4) The notice of the time and place of holding the said Special Election shall be printed in two (2) issues of a newspaper having a general circulation in The Town of Dagsboro within thirty (30) days prior to the said Special Election or distributed in circular form at least fifteen (15) days prior to the Special Election, or both, at the discretion of the Town Council.
- (5) At the said Special Election, any person who is entitled to vote in the annual town election if it were held on that day, shall be entitled to one vote. For purposes of this section, 'entitled to vote' shall include 'registered to vote' and a person may register at the Town office during regular business hours on any day or at other times the Town Council may establish. Absentee balloting shall not be applicable to the Special Election Scheduled for April 27, 2002, because of the insufficient time between enactment of this amendment and that scheduled Special Election. (73 **Del. Laws**, c. 242, 4/10/02)
- (6) The Town Council shall cause to be prepared, printed and have available for distribution a sufficient number of ballots not less than five (5) days prior to the said Special Election. The Special Election may, at the discretion of the Town Council, be conducted by the use of voting machines or by paper ballot. The Mayor of The Town of Dagsboro, by and with the advice and consent of the majority of the Town Council shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened from twelve o'clock noon, prevailing time, until five o'clock in the evening, prevailing time, on the date set for the Special Election.
- (7) The Board of Special Election shall count the votes for and against the proposed loan and shall announce the result thereof. The Board of Special Election shall make a certificate under their hands of the number of votes cast for and against the proposed loan and the number of void votes and shall deliver the same to the Town Council, which said certificate shall be retained by the Town Council with the other papers of the Town Council.
- (8) The form of the bond or certificate of indebtedness, the interest rate, the time or times of payment of interest, the classes of the bond, the time or times of maturity, and the provisions as to registration shall be determined by the Town Council after the said Special Election.
- (9) The bonds may be sold at either public or private sale. If it is determined to sell the bonds at public sale, they shall be offered for sale to the best and most responsible bidder therefor after advertisement in a manner to be described by the Town Council.
- (10) The Town Council shall provide in its budget and in the fixing of the rate of tax for the payment of interest on and principal of the said bonds at the maturity thereof.

- (11) The faith and credit of The Town of Dagsboro shall be deemed to be pledged for the due payment of interest thereon issued pursuant to the provisions hereof when the same had been properly executed and delivered for value.
- (B) The bonded indebtedness shall not at any time exceed in the aggregate the total sum of twenty-five percent (25%) of the assessed value of real property situate within the limits of The Town of Dagsboro shown by the last assessment preceding the creation of the said indebtedness, unless authorized in a greater amount by the General Assembly of the State of Delaware.

**Section 34. Actions Or Suits**

No action, suit or proceeding shall be brought or maintained against The Town of Dagsboro for damages either compensatory or punitive on account of any physical injury or injuries, death or injury to property by reason of the negligence, simple, gross, or willful or wanton conduct, of the said Town of Dagsboro, or any of its departments, officers, agents, servants or employees unless the person by or on behalf of whom such claim or demand is asserted, within ninety (90) days from the happening of said injury or the suffering of such damages shall notify The Town of Dagsboro in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Mayor of The Town of Dagsboro by certified mail with return receipt requested and postage prepaid.

**Section 35. Eminent Domain**

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

**Section 36. Limitation On Liability**

No claim or cause of action shall arise, and no judgment, damages, penalties, costs or other money entitlement shall be awarded or assessed against the Town of Dagsboro, or any board, commission or agency of the Town, or any Town public officer, employee or member of such 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 Sections 4010-4013, Title 10 of the Delaware Code or its successor.

**Section 37. Indemnification**

The Town shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by appropriate insurance, any person who is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Town of Dagsboro itself) by reason of the fact that he is or was a member of the Town Council, Mayor or other duly elected or appointed Town official or employee of the Town of Dagsboro, 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 in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his 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 reasonably believed to be in or not opposed to the best interest of the Town of Dagsboro 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 of terms of the settlement before the right to indemnification shall vest.



Indemnification as provided in this section shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the member of the Town Council, Mayor, Town Officer and/or employee is proper in the circumstances because he met the applicable standards of the conduct set forth above. Such determination shall be made:

- (A) 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
- (B) if such quorum is not obtained, by independent legal counsel in a written opinion,

### **Section 38. Compendium**

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

### **Section 39. Revival Of Powers And Validating Section**

- (A) All powers conferred upon or vested in the Town Council of The Town of Dagsboro by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in The Town of Dagsboro and/or the Town Council of The Town of Dagsboro precisely as if each of said powers was expressly set forth in this Charter.
- (B) All ordinances adopted by the Town Council of Dagsboro and in force at the time of approval, acceptance and going into effect of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the Town Council of The Town of Dagsboro under the provisions of this Charter.
- (C) All of the acts and doings of the Town Council of Dagsboro or of any official of the Town Council of Dagsboro which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town Council of Dagsboro or under any provision of any prior Charter of The Town of Dagsboro, prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.
- (D) All taxes, assessments, license fees, penalties, fines, and forfeitures due The Mayor and Council of The Town of Dagsboro shall be due The Town of Dagsboro and all debts due from The Mayor and Council of The Town of Dagsboro shall remain unimpaired until paid by The Town of Dagsboro.
- (E) All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the Town Council of The Town of Dagsboro.
- (F) The bonds given by or on account of any official of The Town of Dagsboro shall not be impaired or affected by the provisions of this Charter.
- (G) All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter be and the same are hereby repealed to the extent of any such inconsistency.
- (H) If any part of this Charter shall be held to be unconstitutional or invalid by a court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions of this Charter.
- (I) This Charter shall be taken as and deemed to be a Public Act of the State of Delaware.

**Approved July 9, 1991.**

(68 Del. Laws, c. 138, 7/9/91, as amended by 68 Del. Laws, c. 295; 68 Del. Laws, c. 355; 69 Del. Laws, c. 15; 73 Del. Laws, c. 56; 73 Del. Laws, c. 242; 74 Del. Laws, c. 284, 6/29/04; 74 Del. Laws, c. 363, 7/19/04; 75 Del. Laws, c. 154, 7/12/05; 75 Del. Laws, c. 163, 7/12/05; 77 Del. Laws, c. 39, 6/15/09)