

Delmar**Incorporation****Section 1**

The inhabitants of the Town of Delmar, County of Sussex, State of Delaware, within the corporate limits hereinafter defined in this Charter or as hereinafter extended shall be and constitute a body politic and a Municipal Corporation, and shall be known and identified as "The Town of Delmar".

Territorial Limits**Section 2**

The boundaries and limits of The Town of Delmar are hereby established and declared to be as follows:

BEGINNING at a nail set in the paving of the intersections of Delaware Road No. 54 and Sussex County Road No. 512, said nail having Delaware State Plane Coordinates N166153.80, E452318.44 and situated North 87° 54' 47" West, 1326.19 feet from the centerline of the mainline tract of the Conrail Railroad, being the southwest corner of the Town of Delmar as described on a plot of survey dated July 6, 1899, thence North 05° 36' 51" West, 1308.35 feet to a concrete marker having coordinates N167455.87, E452190.44, thence North 84° 45' 08" East, 1619.01 feet to a concrete marker having coordinates N167603.95, E453802.66, said marker situated on the east property line of the Conrail Railroad, thence with said lands North 04° 47' 56" East, 1754.99 feet to a concrete marker having coordinates N169352.29, E453949.44, thence continuing with said lands, South 85° 12' 04" East, 4.00 feet to a concrete marker having coordinates N169351.96, E453953.43, thence continuing with said lands North 14° 38' 07" East, 105.37 feet to a concrete marker having coordinates N169453.90, E453980.05, thence continuing with said lands North 04° 47' 56" East, 521.27 feet to a concrete marker having coordinates N169973.35, E454023.66, thence continuing with said lands, South 87° 22' 30" East, 45.04 feet to a concrete marker having coordinates N169971.28, E454068.65, thence continuing with said lands North 04° 47' 56" East, 2141.24 feet to a concrete marker having coordinates N17215.02, E454247.78, thence continuing with the same course 12.30 feet to a point having coordinates of N172117.27, E454248.81 said point being in the center of a ditch and a property corner for the lands of G.M.S. Realty Corp. (Delmar Drive-In), thence with the center of a ditch and said lands South 84° 27' 09" East, 230.31 feet to a point having coordinates N172095.01, E454478.04, thence continuing with said ditch and lands South 41° 11' 28" East, 379.60 feet to a point having coordinates N171809.35, E454728.04, thence continuing with said ditch and lands South 60° 38' 40" East, 333.07 feet to a concrete marker having coordinates N171646.07, E455018.34, said marker situated on the westerly right-of-way of Delaware Road No. 13A, thence with said lands and right-of-way along a curve to the left described as follows: Arc distance equals 70.85 feet; radius equals 291.24 feet; tangent equals 35.60 feet; chord equals 70.68 feet; chord bearing South 15° 05' 16" West, said curve ending at a concrete marker having coordinates N171577.83, E454999.94 and situated on said right-of-way, thence with said lands and right-of-way South 08° 07' 07" West, 598.83 feet to a concrete marker having coordinates N170985.00, E454915.37, said marker situated at a corner of said lands and on said right-of-way, thence continuing with said lands North 82° 39' 00" West, 459.16 feet to a concrete marker having coordinates N171043.75, E454459.99, thence South 04' 47' 56" West, 1528.71 feet to a concrete marker having coordinates N169520.39, E454332.10, thence South 06° 49' 34" East, 1056.33 feet to a concrete marker having coordinates N168471.55, E454457.65, said marker situated on the westerly right-of-way of North Second Street, thence crossing said street and with the northerly side of Francis Street North 82° 14' 37" East, 383.63 feet to a point having coordinates N168523.32, E454837.77, said point situated in a catchbasin grate, thence with the easterly right-of-way line of Delaware Road 13A South 00° 42' 25" West, 426.25 feet to a pipe having coordinates N168097.10 E454832.51, thence South 89° 17' 18" East, 200.54 feet to a concrete marker having coordinates N168094.61, E455033.03, said marker situated at the northeasterly corner of lands of Mitilda N. Lord, thence South 00° 49' 03" West, 445.47 feet to a concrete marker having coordinates N167649.19, E455026.68, said marker situated on the northerly right-of-way of Rose Street extended, thence with said right-of-way South 86° 54' 15" East, 378.70 feet to a concrete marker having coordinates N167628.74, E455404.83, said marker situated on the easterly right-of-way of Fifth Street extended, thence with said right-of-way South 00° 36' 44" West, 148.21 feet to a concrete marker having coordinates N167480.53, E455403.24, thence South 89° 15' 33" East, 1110.33 feet to a concrete marker having coordinates N167466.18, E456513.48, thence South 00° 43' 53" West, 357.10 feet to a concrete marker having coordinates N167109.11, E456508.92, thence North 85° 26' 49" East, 1134.48 feet to a concrete marker having coordinates N167199.17, E457639.82, said marker situated on the easterly right-of-way of Tenth Street extended, thence with said right-of-way South 00° 31' 04" West, 1265.59 feet to a railroad spike having coordinates N165933.63, E457628.39, said spike situated in the center of East State Street, thence with the

northern boundary line of Delmar, Maryland to the place of beginning the transit tie-line for said boundary being North 87° 37' 33" West, 5314.52 feet.

The Council may, at any time hereafter, cause a survey and plot to be made of the Town and the plot when made and approved by The Council, shall be recorded in The Office of The Recorder of Deeds, in and for Sussex County, State of Delaware, 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.

Annexation Of Territory

Section 3

In the event that it becomes feasible and necessary in the future for The Town of Delmar 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 the territory contiguous to the then existing corporate limits and territory of The Town of Delmar, 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 Delmar shall appoint a Committee composed of not less than (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 finding and conclusions to the Mayor and Town Council of Delmar. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town, of Delmar 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 Delmar may then pass a second Resolution annexing such territory to The Town of Delmar. 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 Delmar.
- (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 Delmar 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 Delmar shall appoint a Committee composed of the 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 Delmar.
- (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 Delmar. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Delmar and to the territory proposed to be annexed and shall contain the recommendations 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 the report, a second Resolution shall then be passed by the Town Council proposed to the property owners and residents of both the Town of Delmar and the territory proposed to be annexed that the Town proposed 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, within thirty (30) days after receiving the report of the Committee, the resolution proposing to the property owners and residents of both the Town and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of 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 six (6) months 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 Delmar 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 Delmar 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 the 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 of the Town of Delmar, or, in the discretion of the Town Council, the said notice may be posted in four (4) public places, both in the Town of Delmar 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 Delmar and in the territory proposed to be annexed shall have one (1) vote, except as hereinafter provided. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed. Every citizen of either the Town of Delmar 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 event that a person owns property both in the Town of Delmar 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 Delmar and in the territory proposed to be annexed but does not reside in either place, he may vote only in the Town of Delmar and not in the territory proposed to be annexed. Nonresident 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 Delmar in the case of Town property owners and citizens of the Town and the books 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 a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election a duly authenticated Power of Attorney shall be filed in the Office of the Town Manager of the Town of Delmar. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation.
- (h) Town Council of the Town of Delmar may cause either voting machines or paper ballots 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 Delmar 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 Delmar 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 or ballot boxes. 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 or on one ballot box and all ballots cast by those persons, partnerships, or corporations, who are authorized to vote as residents or property owners of the Town of Delmar shall be accomplished on the other such voting machine or ballot box. The polling place shall be open from eleven o'clock in the morning, prevailing time, until seven o'clock in the evening, 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.

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- (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 Delmar. 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 Delmar 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 the said Special Election. If a favorable vote for annexation shall have been cast, the Town Council of the Town of Delmar 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 Delmar 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 the taxation or which is not assessed on the books on the Board of Assessment of Sussex County, no election shall be necessary and the Town Council of the Town of Delmar 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 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 Delmar 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 Delmar. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Delmar 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 Delmar may then pass a second Resolution annexing such territory to The Town of Delmar. 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 six (6) months from the date that the Resolution failed to receive the required votes. If the Resolution received the required number of votes, the Town Council of The Town of Delmar 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 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 Delmar 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.

Enumeration Of Powers

Section 4.

- (a) The Town shall have all powers possible for a town to have under the Constitution and laws of this State as fully and completely as though they were specifically enumerated in The Charter. Not by way of limitation upon the power vested in the Town Council of The Town of Delmar to exercise all power 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 for the purposes of clarity, The Town Council is vested by this Charter with the following powers to be exercised by The Town Council in the exercise and interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs:

- (1) To prevent vice, drunkenness and immorality;
- (2) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;
- (3) To prohibit all gaming and fraudulent devices;
- (4) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;
- (5) 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, wharf, dock, 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 agreements for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare with the Town;
- (6) To regulate or control the observance of the Sabbath Day;
- (7) 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;
- (8) 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 of buildings or conditions detrimental to the public health or constituting a public nuisance or of an offensive or a noxious nature;
- (9) To enforce the removal of ice, snow or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners;
- (10) To prohibit, remove or regulate the erection of any stoop, step, platform, by window, cellaate, area, descent, sign, post or any other erection or projections in, over, upon or under any street, highway, alley, lane, water course, park, lake, strand, sidewalk, crosswalk, wharf, dock, sewer, drain, aqueduct or pipeline of the Town;
- (11) To define, prevent, abate or remove nuisances, obstructions, or any other condition detrimental to the public safety, health or welfare;
- (12) 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 Delmar 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 wilful 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.
- (13) 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 wilful 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.

- (14) To provide, construct, extend, maintain, manage and control the plan 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, highway, lanes, alleys, water courses, parks, lake, 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 transmissions 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 purpose 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 wilful 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.
- (15) 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 or rivulet within the Town, to regulate, maintain, clean and keep the same open, clean 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.
- (16) To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, or fills for the preservation of any strand or high land within the limits of the Town and contiguous thereto to the end that the same may be preserved, property protected that the general public might enjoy the use thereof.
- (17) 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 considerations as the Town Council shall deem in the best interest of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, wharfs, docks 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 erecting wharfs and piers and for the purpose of vending any article or merchandise or service upon or from any vehicle upon any present and future street, highway, lane, alley, etc.
- (18) To regulate and control the exercise of any license or franchise mentioned in Section 4 of this Charter, or intended to be;
- (19) 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;
- (20) To direct the digging down, draining, filling 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;
- (21) To provide for or regulate the numbering of houses and lots on the streets and the naming of the streets and avenues;
- (22) 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;
- (23) 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 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;

- (24)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 violation of law or Ordinance, or for detention of persons accused of violation of law or Ordinance, 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;
- (25)To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town;
- (26)To regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, bean shooters, and any other device for discharging missiles which may cause bodily injury or injury or harm to property; and to regulate or prevent the use of fire works, bombs and detonating works of all kinds;
- (27)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;
- (28)To provide for the organization of a fire department 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 to any volunteer fire company or companies incorporated under the law of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting 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;
- (29)To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water, rent, electric bill, gas bill, license fee, tapping fee, 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;
- (30)To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; provided, however, that the amount to be raised from this source shall not exceed in any one year the sum of One Million Dollars (\$1,000,000.00); and provided further that there shall be no limitation upon the amount which may be raised from the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether hereinbefore or hereafter incurred; 69 Del. Laws, c. 137
- (31)To levy and collect a personal or per capita tax upon all persons resident within the corporate limits of the Town of Delmar to be used for any and all municipal purposes;
- (32)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 thereon attached 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 of such constructions or erections, wires or 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 30 of this Charter, the Town Council shall have the authority to cause the same to be removed;
- (33)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;
- (34)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;
- (35)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;
- (36)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; provided, however, that in no event shall the indebtedness of the Town for any and all purposes at any one time exceed the aggregate twenty-five percent (25%) of the assessed value of all real estate in the Town subject to the assessment for the purpose of levying the annual tax hereinbefore mentioned;

- (37) To acquire, and/or to vacate the use of lands, tenements, personalty, 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 Delmar 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;
- (38) To appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency;
- (39) 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 for the Town by any person owing the same;
- (40) To inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena;
- (41) To establish 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. 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;
- (42) To borrow money in anticipation of revenues on the full faith and credit of The Town of Delmar sum or sums not exceeding One Hundred Fifty Thousand Dollars (\$150,000.00) in any one year when, in the opinion of a majority of the Town Council of The Town of Delmar, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of The Town of Delmar, duly authorized by Resolution adopted by the Town Council, and signed by the Mayor, and attested by the Secretary of the Town Council with the corporate seal affixed, and no officer or member of the Town Council shall be personally liable for the payments of such notes because it is signed by them as officers of the Town and is authorized by the resolution of the Town Council; provided, however, that the total sum outstanding as a result of utilizing this section at any one time shall not exceed One Hundred Fifty Thousand Dollars (\$150,000.00); and provided further that such ad valorem taxes may be levied as is necessary to pay the principal of the interest on said bonds as is 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.
- (43) To make, adopt and establish all such Ordinances, Regulations, Rules, and By-Laws not contrary to the laws of this State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other 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.
- (44) The Town may exercise any of its powers and perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states, municipalities, counties, or civil divisions or agencies thereof or the United States or any agency thereof. The Council shall have the power to enter into any cooperative agreement with the Town of Delmar, Maryland, for the common good of the two towns. The Town Council may authorize the establishment of various commission, boards, or agencies representing citizens of both towns, and having authority to carry out such duties as the Town Council may prescribe. The Town Council shall have the power to authorize such boards, into effect town ordinances, to grant or refuse permits, and to adopt such rules and regulations as may be required to carry out the agency's responsibilities, according to the standards and

guidelines set forth by the Council. The Town Council may delegate to such boards, commissions, or agencies any governmental powers to the full extent permitted by State and Federal law.

(45) To use Town funds, or to exert the Town's taxing power, or to lend or pledge the Town's credit for the purpose of aiding or promoting a private enterprise within the Town.

(46) To enact ordinances or resolutions as the Town Council may prescribe for the remission of Town taxes.

(47) To determine what purposes are deemed to be public purposes or deemed to be municipal purposes.

(b) All charges by the Town for public expenditures on private property for grass cutting and for the rehabilitation and improvement of housing within the Town, whether to the exterior of interiors of such housing, shall constitute a lien, for a period of 10 years, upon the real estate in the Town of Delmar benefited by such grass cutting and housing rehabilitation or improvement expenditures. 71 Del. Laws, c. 53

(c) Notwithstanding subsection (a) of this section or Section 18(a) of this Charter, all of the following apply:

(1) The Town is a "public employer" or "employer" as defined in § 1602 of Title 19 of the Delaware Code.

(2) Chapter 16 of Title 19 of the Delaware Code, including determinations made under Chapter 16 of Title 19 of the Delaware Code, applies to the Town, including in a cooperative agreement between the Town and the Town of Delmar, Maryland entered into before, on, or after [the effective date of this Act]. 83 Del. Laws, c. 127

Government

Section 5

- (a) The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in the Town Council, consisting of a Mayor and four Council Members. The term of the Mayor shall be for a Period of two years and the term of each Council Member shall be for the period of four years, each term commencing at the annual meeting of the Town Council following his or her election and continuing until his or her successor is duly elected and qualified. 71 Del. Laws, c. 53; 79 Del. Laws, c. 403;
- (b) If any member during his term in office is no longer in compliance with the qualifications for office prescribed by this Charter, is found to have committed an ethical violation by the State Public Integrity Commission, is convicted of a felony, is determined to have committed a felony prior to assuming his office, or fails to attend Council meetings for 3 consecutive months without being excused by the Council, such member may be found to be disqualified from holding office. A majority of the remaining Mayor and Council may vote to remove the offending or absent Mayor or Council Member, provided written notice of the potential removal is sent to the offending or absent Mayor or Council Member at least 15 days in advance, and the offending or absent Mayor or Council Member is given the opportunity to be heard on the potential removal; 79 Del. Laws, c. 403
- (c) The Mayor shall receive an annual salary; the time of payment is to be determined by the Town Council by Resolution, but in no event shall such salary be paid less frequently than monthly. The salary of the Mayor may be increased or decreased from time to time by Resolution adopted by two-thirds of the elected members of the Town Council; and 79 Del. Laws, c. 403
- (d) Each member of the Town Council shall receive an annual salary, the time of payment to be determined by the Town Council, by Resolution, and to be, as to the time of payment, the same as the salary of the Mayor, but in no event shall such salary be paid less frequently than monthly. The salary of the members of the Town Council may be increased or decreased by Resolution adopted by two-thirds of the elected members of the Town Council, but in no event shall the salary for a member of the Town Council equal or exceed the salary to be paid to the Mayor. 79 Del. Laws, c. 403

Qualification Of Town Councilperson And Mayor

Section 6

The qualification for Town Councilperson and the Mayor shall be as follows:

- (a) A bona fide resident of the United States and of the State of Delaware and a resident of The Town of Delmar for at least one year next preceding the municipal elections; and
- (b) Be at least 18 years of age;

- (c) Each of the qualifications for Town Councilperson or Mayor shall be continuing qualifications to hold office and the failure of any of the Councilpersons or the Mayor to have any of the qualifications required by this Section during the terms of his or her office will create a vacancy in the office. 66 Del. Laws, c. 76

Nominations And Elections

Section 7

- (a) The municipal election shall be held biannually on the first Monday in October between the hours of 7:00 a.m. and 7:00 p.m. prevailing time, at such place as designated by Town Council, the first municipal election to be held pursuant to this Charter to be held on the first Monday in October, A.D., 1988.
- (b) The election shall be held under the supervision of an Election Board consisting of three qualified voters of the Town to be appointed by The Town Council at the last regular meeting preceeding the election. The Election Board shall be the judges of the election and shall decide upon the legality of the votes offered.
- (c) Every person, resident of The Town of Delmar, who is over the age of eighteen (18) years and who has resided in The Town of Delmar for at least six (6) months next preceeding the day of the election, shall be entitled to vote at the election; provided, however, that The Town Council, may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite for voting at the election. The Town Council of the Town of Delmar may, by ordinance, provide for any qualified voter to cast an absentee ballot at the municipal election. 69 Del. Laws, c. 137
- (d) Upon the close of the election, the votes shall be read and counted publicly, and the persons having the highest number of votes, for each office, shall be declared duly elected, and shall continue in the office during the term for which they are chosen, until their successors are duly elected and qualified.
- (e) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to persons elected certificates of election, which book, containing such minutes, shall be preserved by the Town Council and shall be evidence in any court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of the elections shall be preserved in the custody of the Election Board for the period of ten (10) days following the election.
- (f) Any vacancy in the Election Board shall be filled by the electors present at the time of the election, by naming from the electors present such person or persons as shall be necessary to fill such vacancy.
- (g) In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.
- (h) Not less than ten (10) days prior to the election, each candidate shall notify the Town Manager in writing of his or her candidacy for the office for which he or she is nominated. All such notifications of candidacy must be filed in the office of the Town Manager during the regular business hours of the Town. It shall be the duty of the Town Manager to have a list of names of all candidates so filed with him or her printed in a newspaper of general circulation in the Town of Delmar at least five (5) days prior to the date of the municipal election next ensuing; or, in the discretion of the Town Council, the Town Manager may post a list of names of all candidates designating the office sought by each candidate in at least five (5) public places within the Town of Delmar, such public places to be designated by the Town Council. 71 Del. Laws, c. 16
- (i) The Town Council shall be empowered to make such ordinances, rules and regulations as it deems advisable concerning the conduct and the affairs of the election that is not inconsistent with the provisions of this Charter.
- (j) The members of the Town Council of the Town of Delmar who hold office at the time of the passage of this act shall continue to hold office as members of the Town Council of the Town of Delmar, until their respective successors have been duly elected and qualified.

Organization

Section 8

- (a) On the first Monday in November after the municipal election, the Town Council shall meet at 8:00 p.m. prevailing time and the newly elected officers shall assume their duties. Before entering the duties of their office, the newly elected members shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity. 66 Del. Laws, c. 76

- (b) At this biennial meeting, the Town Council shall organize and elect, by ballot, from among their own number, a Deputy Mayor who shall hold office for a term of two (2) years or until his or her successor shall be duly elected. The Town Council shall likewise elect such other officers and employees as may be determined necessary. 69 Del. Laws, c. 137

Meeting Of Council

Section 9

The Town Council shall hold regular meetings once a month at such times as may be designated by the Town Council. Special meetings may be called by the Mayor and shall be called by him or her upon written request of three (3) members of the Town Council and held as prescribed by ordinance or resolution; and all meetings, regular and special, shall be open to the public.

Quorum

Section 10

A majority of the members elected to the Town Council shall constitute a quorum; but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalty as may be prescribed by ordinance.

Rules And Minutes Of Council

Section 11

Town 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.

Vacancies

Section 12

In the case of a vacancy created in the office of Mayor or member of Council, either by death, resignation, loss of residence or otherwise, the Town Council may fill such vacancy and the person so appointed shall serve for the unexpired term or until his or her successor shall be elected and qualified. 71 Del. Laws, c. 16

Administrative Departments

Section 13

The Town Council may establish departments, offices, or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices, and agencies. All departments, offices, and agencies under the direction and supervision of the Town Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Town Manager.

Mayor

Section 14

Mayor shall be the executive of the Town. He or she shall preside at the meetings of the Town Council; he or she may make and second motions and shall have a voice and vote in all its proceedings. He or she shall execute on behalf of the Town of Delmar all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed. He or she shall countersign all checks, orders or warrants authorized by the Town Council. 71 Del. Laws, c. 16

Town Manager

Section 15

- (a) The Town Council of the Town of Delmar may appoint a Town Manager who shall be the Chief Administrative Officer of the Town.
- (b) The Town Manager shall be appointed for an indefinite term. The Town Council shall impose such qualifications for the Town Manager as may be deemed necessary and shall fix his or her compensation.
- (c) The Town Manager shall be responsible to the Town Council for the administration of all Town affairs placed in his or her charge by or under this charter. He or she shall have the following powers or duties:
 - (1) He or she shall appoint and, when he or she deems it necessary for the good of the Town, suspend or remove all town employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, or personnel rules adopted pursuant to this charter. He or she may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
 - (2) He or she shall direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by this charter or by law, or by the Town Council.
 - (3) He or she shall attend all Town Council meetings and shall have the right to take part in discussion but may not vote.
 - (4) He or she shall see that all laws, provisions of this charter and acts of the Town Council, subject to enforcement by him or her or by officers subject to his or her direction and supervision, are faithfully executed.
 - (5) He or she shall prepare and submit the annual budget and capital program to the Town Council.
 - (6) He or she shall submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year.
 - (7) He or she shall make such other reports as the Town Council may require concerning the operations of Town Departments, offices and agencies subject to his or her direction and supervision.
 - (8) He or she shall keep the Town Council fully advised as to the financial condition and future needs of the Town and make such recommendations to the council concerning the affairs of the Town as he or she deems desirable.
 - (9) He or she shall perform such other duties as are specified in this charter or may be required by the Town Council.
- (d) The Town Council may remove the Town Manager from office in accordance with the following procedures:
 - (1) The Town Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the Town Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Town Manager.
 - (2) Within five days after a copy of the resolution is delivered to the Town manager, he or she may file with the Town Council a written request for a public hearing. This hearing shall be held at a Town Council meeting not earlier than fifteen days nor later than thirty days after the request is filed. The Town Manager may file with the Town Council a written reply not later than five days before the hearing.
 - (3) The Town Council may adopt a final resolution of removal, which may be made effective immediately by affirmative vote a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Town Manager, if he or she has not requested a public hearing, or at any time after the public hearing if he or she has requested one.
- (e) The Town Manager shall continue to receive his or her salary until the effective date of a final resolution of removal. The action of the Town Council in suspending or removing the Town Manager shall not be subject to review by any court or agency.
- (f) If the Town Manager is absent from the city, is unable to perform his or her duties, or is suspended by the Town Council, or if there is a vacancy in the office of the Town Manager, the Town Council may appoint an Acting Town Manager to serve until the Town Manager returns, until his or her disability or suspension ceases, or until another Town Manager is appointed and qualified, as the case may be. 71 Del. Laws, c. 16

Board Of Health**Section 16**

- (a) The Board of Health shall consist of four members, one of whom may be a practicing physician in the Town. The Board shall serve for one year; shall have cognizance of all matters pertaining to the life and health of the residents of the Town; shall report to the Council in writing whatever is deemed by the Board to be injurious to the health of the people of the Town, and shall also make such recommendations to the Council as may, in their judgement, be beneficial or in any way contribute to the sanitation or health of the residents of the Town. The Board shall also have all powers and duties enumerated by the laws of the State of Delaware for local Boards of Health.

The Board shall organize by election of a President and Secretary within ten (10) days after the notice of their appointment, and shall keep a record of their proceedings and acts. The Secretary shall be the executive officer of the Board.

The Secretary of the Board may be allowed a reasonable annual compensation for his services, which shall be fixed and determined by the 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, but he shall be a resident of the Town.

Town Solicitor

Section 17

- (a) At the biannual meeting, the Council shall select a Town Solicitor for the term of two years or until his or her successor shall have been duly chosen and qualified. The Town Solicitor shall be a member of the Bar of Sussex County. It shall be his or her duty to give legal advice to the Council and other officers of the Town, and to perform other legal services as may be required of him or her by the Council. 71 Del. Laws, c. 16

Police Force

Section 18

- (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.
- (b) Each member of the police force shall have police powers similar to those of constables and shall be conservators of the peace throughout The Town of Delmar, 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 Delmar. 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 Delmar.
- (c) Every person sentenced to imprisonment by the Alderman or the Assistant Alderman or a Justice of the Peace, as the case may be, shall be delivered by a member of the police force to the correctional institution located in Sussex County to be there imprisoned for the term of his sentence.
- (d) In the case of an arrest at any time when the Alderman or the Assistant Alderman of The Town of Delmar shall not be available or if no such Alderman or Assistant Alderman has been appointed, the person arrested may be taken before the nearest Justice of the Peace with offices in Sussex County who shall hear and determine the charge, and who, in such case is vested with all the authority and powers granted by this Charter under the Alderman or the Assistant Alderman. In the case of an arrest at a time when the Alderman or the Assistant Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Sussex County for imprisonment until such reasonable time thereafter as shall enable the Alderman or Assistant Alderman or the Justice of the Peace to hear and determine the charge against such person.
- (e) 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 the 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.

Alderman

Section 19

- (a) The Town Council may appoint an Alderman and also an Assistant Alderman. Any person appointed as Alderman or Assistant Alderman shall be a resident of The Town of Delmar and shall not be a member of The Town Council of the Town of Delmar. Any person appointed as Alderman or Assistant Alderman shall be appointed for an indefinite term. Either the Alderman or the Assistant Alderman may be removed from office at any time, with or without cause, by the affirmative vote of two-thirds (2/3) of the elected members of the Town Council of the Town of Delmar.
- (b) Before entering the duties of his or her office, the person appointed to serve as Alderman or to serve as Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of his or her office honestly, faithfully, and diligently and to uphold and enforce The Charter of the Town of Delmar and the Ordinance enacted by the Town Council of The Town of Delmar and to carry into effect all orders of the Town Council of The Town of Delmar made pursuant to any law of the State. The Assistant Alderman shall perform the functions of Alderman if the Alderman is not available and at such other times as may be designated by the Town Council. During such a period the Assistant Alderman shall have all the powers and duties of the Alderman.
- (c) The Town Council shall procure suitable records for the use of the Alderman and the Assistant Alderman. Such records shall be known as the "Alderman's Docket". The Alderman and the Assistant Alderman shall each record all official acts and proceedings in the Alderman's Docket.
- (d) The Alderman and the Assistant Alderman shall have Jurisdiction and cognizance of all breeches of the peace and other offenses committed within the limits of the Town of Delmar, so far as to arrest and hold to bail, or fine and imprison offenders for any offense, penalty or forfeiture, prescribed by the Charter of the Town of Delmar, and any Ordinance enacted thereunder; to hear and determine all violations under the provisions of Chapter 41 Title 21 Delaware Code of 1953 as herebefore and hereafter amended by the General Assembly of the State of Delaware which occur within the Town of Delmar with such provisions are herein made a part of the laws of the Town of Delmar, except to the extent that such provisions shall be altered or supplemented by Ordinances passed by the Town Council and shall have power to impose a maximum penalty as authorized by Chapter 41 Title 21 of the Delaware Code of 1953 as the same may be from time to time be amended; to hear and determine the violation of any law of the State of Delaware, occurring within the Town of Delmar, the jurisdiction of which is included in that of the Justice of Peace Courts in the State of Delaware; to have jurisdiction of neglects, admissions, or defaults of any member of the police force or other town officers, agents or employees.
- (e) The Alderman and Assistant Alderman shall have civil jurisdiction for the collection of town taxes, recovery of amounts due and payable for the construction of sidewalks, curbs, or pavements, expenses of abatement of nuisances, and all other matters which may arise in the proper government and control of the Town under the provision of this Charter and such other civil jurisdiction as the Town Council may from time to time prescribe.
- (f) The Town Council shall determine the costs that shall be levied in matters brought before the Alderman or the Assistant Alderman.
- (g) The Alderman and the Assistant Alderman shall prepare and submit a monthly report to the Town Council reporting all fines and penalties imposed during the preceeding calendar month and shall pay to the Town all such fines and penalties.
- (h) The Alderman and Assistant Alderman shall receive such a salary as may be fixed from time to time by the Town Council.
- (i) Upon the expiration of his or her term of office or upon his or her resignation or removal from office, the Alderman or the Assistant Alderman shall forthwith deliver to his or her successor all books, papers, documents, and other things belonging or appertaining to his or her office, and shall pay over to the Town Manager all monies in his or her hands belonging to the Town. Upon neglect or failure to make such delivery or payments for the space of ten (10) days, he or she shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars (\$500.00) or imprisonment at the discretion of the Court.
- (j) The Town Council shall have the power and authority to enact Ordinances and/or Resolutions for the orderly administration of the office of the Alderman and of the Assistant Alderman not inconsistent with the Charter. 71 Del. Laws, c. 16

Section 20

The Town Council shall appoint an accountant to be the Auditor of the Town of Delmar. It shall be the duty of the Auditor to audit the accounts of the Town and all its officers whose duty involves a collection, custody and payment of monies to the Town. The Auditor shall audit the books of the Alderman and the Assistant Alderman of the Town of Delmar, the records of all fines, penalties, costs imposed or collected by and 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 or her hand and seal shall be printed in the newspaper having a general circulation in the Town of Delmar in the issue immediately preceding the annual report. The Auditor, in the performance of his or her duties, shall have access to all records and accounts of the offices of the Town Council and he or she is hereby authorized and empowered to employ such clerks or accountants as in his judgment may be necessary in the proper performance of his or her duties. 71 Del. Laws, c. 16

Fiscal Year**Section 21**

The Town of Delmar shall operate on an annual budget. This fiscal year of the Town shall begin on the first day of July in any year and shall end on the last day of June in the following year. The fiscal year constitutes the tax year, the budget year, and the accounting year.

The Town Budget**Section 22**

- (a) Annually each year not later than sixty (60) days prior to the beginning of the fiscal year, the Town Manager 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 by the Town Manager, prepare a town budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.
- (b) The budget shall contain the following information:
 - (1) A detailed estimate showing the expense of conducting each department and office of the Town for the ensuing fiscal year;
 - (2) The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and 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 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 foot assessments, license fees, and other anticipated income of the Town from any source or sources whatever.
- (c) The Town Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

Collection Of Charges Due The Town**Section 23**

- (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 foot assessments, charges growing out of the abatement of nuisances, laying out and repairing paving, graveling, curbing, or any of them, 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 Town Manager for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

Power To Borrow Money And Issue Bonds**Section 24**

- (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 Delmar 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; or to defray the cost or the share of the Town of the costs of any permanent municipal improvements; 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, 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 of the passage of the resolution and shall fix a 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 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 said 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 special election shall be printed in two (2) issues of a newspaper having a general circulation in the Town of Delmar within thirty (30) days prior to the 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 such special election every person who would be entitled to vote at a biannual election if held on that day shall be entitled to one vote.
 - (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 Town Council shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened from 2:00 p.m. until 7:00 p.m. prevailing time, on the date set for the Special Election.
 - (7) The Board of Special Elections shall count the votes for and against the proposed loan and shall announce the result thereof. The Board of Special Elections shall make a certification 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 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 Special Election.
 - (9) The bonds may be sold at either public or private sale as determined by the Town Council. If the bonds shall be offered for public sale, they shall be sold to the best and most responsible bidder(s) therefore after advertisement in a manner to be described by the Town council as least one (1) month before offering the same for sale. 71 Del. Laws, c. 281
 - (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 Delmar shall be deemed to be pledged for the due payment of the bonds and interest thereon issued pursuant to the provisions hereof when the same had been properly executed and delivered for value.

- (b) Notwithstanding the foregoing provisions of this Section, the Town Council may authorize the issuance of bonds or other obligations of the Town under this Section in an aggregate amount of up to \$1,000,000 outstanding at any time, without regard to the requirements set forth in paragraphs (1) - (7) of Section 24(a), if:
- (i) the Town Council, by Resolution (adopted by at least a majority of all of the members of Town Council) approves of the issuance of bonds or other obligations pursuant hereto for a proper municipal purpose with such Resolution stating the amount of such issuance, the purpose of such issuance, the manner of securing the same, that the amount of all other bonds and obligations issued pursuant to this paragraph (b) does not exceed \$1,000,000 and any other facts relating to the issuance which are deemed pertinent by the Town Council and in their possession at that time. Such Resolution (or a subsequent Resolution adopted by at least a majority of a quorum as established pursuant to Section 10 hereof) shall establish the form of the bonds or certificates of indebtedness, the time or times of payment, the interest rate or rates, the classes, the series, the maturity or maturities, the registration, any callable or redeemable features, the denominations and the name or names thereof and any other relative or appurtenant matter pertaining thereto. Except for the provisions of paragraphs (1) - (7) of Section 24(a), all other provisions of this Section 24 shall be applicable to the bonds and other obligations issued pursuant to this paragraph (b). 71 Del. Laws, c. 281
- (c) The bonded indebtedness shall not at any time exceed in the aggregate the total sum of twenty-five (25) percent of the value of real property situate within the limits of the Town of Delmar shown by the last assessment preceding the creation of the said indebtedness.

Curbing And Paving

Section 25

- (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 Town Manager 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 Delmar, 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 Town Manager 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 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.

Contracts

Section 26

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); 69 Del. Laws, c. 137
- (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 a governmental body;

- (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 Manager;
- (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 requirement or not independently reached in open competition;
- (9) A public emergency as determined by the Town Council exists.

Board Of Assessment

Section 27

- (a) The Board of Assessment shall be appointed by the Town Council for an indefinite term. The Board of Assessment shall consist of three (3) members, all of whom shall be bona fide residents of the Town of Delmar and freeholders of the Town.
- (b) They shall be sworn or affirmed by the Mayor of the Town of Delmar or by a Notary Public to perform their duties with fidelity and without favor. It shall be their 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 Delmar. Compensation to be by them received for the performance of their duties in the hiring of employees to assist them in the performance of their duties shall be fixed by and subject to the approval of the Town Council of the Town of Delmar.

Assessment Of Taxes

Section 28

The Board of Assessment shall, within ninety (90) days prior to the beginning of the next fiscal year, make a just, true and impartial annual valuation or assessment of all real estate and improvements located thereon located within the Town of Delmar. 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 or real estate cannot be found or ascertained, it may 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 Board of Assessment 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 Board of Assessment. 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 Board of Assessment, after making such annual assessment, shall, at least ninety (90) days prior to the end of the fiscal year, deliver to the Town Council of the Town of Delmar a list containing the names of all persons assessed and the amount of assessment against each. They shall deliver at such time as many copies of said list as the Town Council shall direct.
- (b) The annual 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 Board shall make its valuation accordingly.
- (c) The real property of the several members of the Board of Assessment shall be assessed by the Town Council of the Town of Delmar.
- (d) Immediately upon receiving the annual assessment list from the Board of Assessment, the Town Council of the Town of Delmar shall cause a full and complete copy of the same, containing the amount assessed to each taxable be publicly displayed at the Town office of the Town of Delmar or at some other public place if the Town Council so determines and there it shall remain for a period of at least ten (10) days for the information of and 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

that, 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 or her own appeal but the same shall be heard and determined by the other councilpersons. 71 Del. Laws, c. 16

- (e) All the members of the Board of Assessment 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 Board of Assessment by appropriate process.
- (f)
 - (1) In addition to the annual assessment provided for herein, the Town Council may direct the Board of Assessment 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 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 rate for the current year applicable to the property, reduced by twenty-five percent (25%) where the property is listed on the second supplemental assessment roll; fifty percent (50%) where the property is listed on the third assessment roll; and by seventy-five percent (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 the property from the time of its certification. For all taxes paid after the first day of the second month after certification, the interest rate shall be at the rate of one-half of one percent (.5%) per month and an additional sum of one percent (1%) per month as a penalty added until the same shall have been paid. All taxes unpaid after the first day of the second month after certification shall be considered delinquent. After the collection of such delinquent taxes, the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any interest or penalty imposed thereon.
 - (4) Whenever the Board of Assessment places a property on a supplemental assessment roll, it shall deposit notice thereof in the regular mail addressed to the owner of the property effective thereby in the regular mail addressed to the owner of the property effective thereby at the address shown on the assessment rolls; or, if the address of such owner does not appear on the assessment roll, then to the person occupying the property, or if there is no apparent occupant, such notice shall be posted on the land. Such notice shall be given no later than the date on which the supplemental assessment roll on which the property appears is certified to the Town Council.
 - (5) The Town Council shall publish notices of the places where the supplemental assessment roll may be inspected and the procedure for appeals shall be in accordance with the provisions of section 28(d).
 - (6) In no case shall the supplemental assessment procedure be employed to impose taxes retroactively. 68 Del. Laws, c. 209

Levy Of Annual Taxes

Section 29

- (a) At the last regular meeting in 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 unanticipated 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 for 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 4 of this Charter as amended; and/or
 - (4) The several license fees to be charged for carrying on or conducting of the several business, professions or occupations more particularly mentioned or intended so to be in Section 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; and/or
 - (6) 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), and (6) aforementioned may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and that any regular or special meeting of the Town Council as the Town Council, in its own 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 such taxable thereon from sources (1), (2) and (3) abovementioned. This list shall be known as the Annual Tax List of the Town of Delmar. 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 Manager a duplicate of said Annual Tax List and the Town Manager shall immediately proceed to collect the same as herein after provided.
- (e) 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 Delmar under existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in the Town of Delmar created hereby.

Collection Of Annual Taxes

Section 30

- (a) The Town Manager, as soon as the Town Council shall have placed in his or her hands a duplicate Annual Tax List, shall proceed at once to collect the taxes on said duplicate list.
- (b) All taxes so laid or imposed by the Town of Delmar in such Annual 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 Delmar. 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.
- (c) All taxes, when and as collected by the Town Manager, shall be paid to the Town of Delmar, and all taxes shall be due and payable at and from the time of the delivery of the Annual Tax List to the Town Manager.
- (d) All taxes shall be payable at the Town Office of the Town of Delmar during the regular business hours of that office.
- (e) On all taxes paid on or after the expiration of ninety (90) days next succeeding the delivery of the duplicate Annual Tax List to the Town Manager there shall be added interest at the rate of one-half of one percent (.5%) per month and an additional sum of one percent (1%) per month as a penalty 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 after the expiration of ninety (90) days from the beginning of the fiscal year of the Town of Delmar shall be considered delinquent. In effecting a collection of any delinquent tax, the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any interest or penalty imposed thereon.

- (f) At the annual meeting of the Town Council of each year, the Town Manager shall account to the Town Council for all taxes and sewer rentals collected by him or her during the year and shall be liable on his or her bond for failure to account for any uncollected taxes or sewer rentals unless he or she 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 Town Manager, when any tax has become delinquent, may, in the name of The Town of Delmar, institute in any court of competent jurisdiction for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in the case of other judgments recovered thereon.
- (h) However, should The Town Manager so elect, he or she 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:
 - (1) The Town Manager shall present in the name of The Town of Delmar 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 impractical to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the Town Manager 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 Town Manager 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 or she shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The Town Manager 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 Town Manager 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 Town Manager of the Town of Delmar 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 sales of lands and tenements of a delinquent taxpayer shall be advertised in four (4) public places in the Town of Delmar, and one (1) at 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 Town Manager 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 a bank either to the credit of the owner or in a manner in which the fund may be identified.
 - (8) The Town Council may by ordinance prescribe the costs and the amounts thereof to be changed and prescribe the manner in which such costs shall be paid.
 - (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 of land and tenements in the same assessment in The Town of Delmar, 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 Town Manager of The Town of Delmar before the proceedings for the sale of lands shall have been completed, his or her successor in office shall succeed to all his or her 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 purchases thereat, the person having right under him by descent, 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 Town Manager 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 Town Manager shall have the same right to require the aid or assistance of any person or persons in the performance of his or her duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.
- (i) Furthermore, should the Town Manager alternatively elect, he or she 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 direction of the Town Council using any of the procedures specified for the sale of lands for the collection of taxes for Sussex County, and all such procedures and methods available for the sale of lands, as aforesaid, including the redemption periods, as they are presently enacted and hereafter amended are included herein and made a part hereof by reference thereto, including the method of sale by monition, as the same is set forth in 9 Del C. § 8721, et. seq., and the same may hereafter be amended from time to time, substituting the Town of Delmar for the Department of Finance of Sussex County and/or Sussex County. 70 Del. Laws, c. 193; 71 Del. Laws, c. 16;

Streets

Section 30A

- (a) The Town Council shall have the power and authority to locate, lay-out and open new streets and to widen, close or abandon streets or a part thereof, whenever it shall be deemed to be in the best interest of the Town.
- (b) For all purposes of this Section, the word "street" shall be deemed and held to comprehend and include sidewalks, lanes, alleys, roadways, boulevards, highways or any other thoroughfare used for pedestrian or vehicular traffic. 69 Del. Laws, c. 202; 69 Del. Laws, c. 337;

Actions Or Suits

Section 31

No action, suit or proceeding shall be brought or maintained against the Town of Delmar 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 of the said Town of Delmar, 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 Delmar 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 Delmar by certified mail with return receipt requested and postage prepaid.

Compendium

Section 32

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 Delmar. 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, codes, rules and regulations, or upon the enactment of amendments to same, the Town Council shall enroll the same in the minutes to the Town Council and shall keep codes of 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 Delmar 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.

Revival Of Powers And Validating Section

Section 33

- (a) All powers conferred upon or vested in the Town Council of the Town of Delmar 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 Delmar and/or the Town Council of the Town of Delmar precisely as if each of said powers was expressly set forth in this Charter.
- (b) All ordinances adopted by The Mayor and Council of the Town of Delmar 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 Delmar under the provisions of this Charter.
- (c) All of the acts and doing of The Mayor and Council of the Town of Delmar or of any official of The Mayor and Council of the Town of Delmar which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of The Mayor and Council of the Town of Delmar or under any provision of any prior Charter of the Town Council of the Town of Delmar, 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 Delmar or the Town of Delmar shall be due the Town of Delmar and all debts from the Town or The Mayor and Council of the Town of Delmar shall remain unimpaired until paid by the Town of Delmar.
- (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 Mayor and Council of the Town of Delmar.
- (f) The bonds given by or on account of any official of The Mayor and Council of the Town of Delmar 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 12, 1977.

61 Del. Laws, c. 137; 66 Del. Laws, c. 76; 68 Del. Laws, c. 209; 69 Del. Laws, c. 137; 69 Del. Laws, c. 202; 69 Del. Laws, c. 337; 70 Del. Laws, c. 193; 71 Del. Laws, c. 16; 71 Del. Laws, c. 53; 71 Del. Laws, c. 281; 79 Del. Laws, c. 403; 83 Del. Laws, c. 127;