

Dewey Beach**Section 1. Incorporation.**

The inhabitants of the Town of Dewey Beach in Sussex County, are hereby constituted a municipal corporation and body politic by and under the name of "Commissioners of Dewey Beach, (hereinafter referred to as the "corporation" or "town") with power to govern themselves by such ordinances, rules, resolutions and regulations for municipal purposes as they, through their duly-elected officers and agents, may deem proper, not in conflict with the provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, or of the United States.

Section 2. Territory and Limits.

- (a) The limits and bounds of the Town of Dewey Beach are hereby established and declared to be as follows:
- (b) Starting at a point at the low water mark of the Atlantic Ocean shoreline, said point being the northerly boundary of Rehoboth-by-the-Sea; thence easterly into the Atlantic Ocean 500 feet; thence southerly and parallel to the shoreline to a point which is on an easterly extension of the southern boundary of Collins Street; thence in a westerly direction along the southern boundary of Collins Street to Route No. 1; thence in a southerly direction along the easterly right-of-way of Highway One, to a point approximately 65 feet south of Anchor Way; thence in a westerly direction to the eastern shore of the Rehoboth Bay; thence in a northerly direction and with the meanderings of the Rehoboth Bay shoreline to a point on the Rehoboth Bay westerly of Bayard Avenue, said point being the boundaries of Rehoboth-by-the-Sea; thence with the boundaries of Rehoboth-by-the-Sea Bayard Avenue, northerly across Route 1; thence with the westerly boundaries of Comegys to its easterly side; thence across Route 1 to the southerly edge of Silver Lake; thence with Silver Lake and the boundaries of Rehoboth-by the-Sea to a point; thence easterly with the boundaries of Rehoboth-by-the-Sea, said boundary being the southerly line, and extensions thereof, of Block 51 as shown on the plot plan of Rehoboth-by-the-Sea, to the low water mark of the Atlantic Ocean, the point and place of beginning.

The area designated by this description includes all of Rehoboth-by-the-Sea (as shown on a plot plan on file in Georgetown, Delaware) and all the area south of Rehoboth-by-the-Sea which is bounded on the east by the Atlantic Ocean, on the west by the Rehoboth Bay and which extends southward to the south side of Collins Street on the ocean block and 65 feet southerly of Anchor Way on the bay side and also includes 500 feet of the Atlantic Ocean adjacent to the shoreline.

- (c) The Commissioners of Dewey Beach may, at any time hereafter cause a survey and plot to be made of said Town, and the said plot or any supplement thereto, when so made and approved by said The Commissioners of Dewey Beach, signed by the President, who shall affix thereto the municipal corporate seal of the Town, attested by the Secretary of the said The Commissioners of Dewey Beach, and upon being recorded in the Offices of the Recorder of Deeds of the State of Delaware, in and for Sussex County, shall be, or the record thereof, or a duly certified copy of said record, shall be evidence in all Courts of Law and Equity of this State.
- (d) The Commissioners of Dewey Beach shall have the power to annex additional territory adjoining the corporate limits of the Town of Dewey Beach as hereinbefore set forth or as hereafter extended pursuant to the procedure hereinafter set forth and to apply to all such additional territory all laws, ordinances, resolutions and policies in force with the Town so far as they may be locally applicable. The Commissioners of Dewey Beach shall adopt a Resolution proposing to the property owners and the residents of both the Town and of the Territory proposed to be annexed that The Town of Dewey Beach proposed to annex certain territory which adjoins its then limits and territory. The 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 setting forth the information shall be printed in a newspaper having a general circulation both in The Town of Dewey Beach and in the territory proposed to be annexed at least one week prior to the date set for the public hearing, as well as posted at Town Hall, the Life Saving Station, and on the Town's website. In addition, a reasonable effort will be made to send a personal letter to all qualified voters and property owners of record of the Town and all property owners of record in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the public hearing.

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 Commissioners of Dewey Beach ordering a Special Election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. The passage of this Resolution shall ipso facto be considered the determination of the Commissioners of Dewey Beach to proceed with the matter of the proposed annexation.

CHARTER OF DEWEY BEACH

The notice of the time and place of holding the said Special Election shall be printed within thirty (30) days immediately preceding the date of the Special Election in two (2) issues of a newspaper having a general circulation in The Town and in the territory proposed to be annexed as well as posted at Town Hall, the Life Saving Station, and on the Town's website at least fifteen (15) days prior to the date of the Special Election. In addition, a reasonable effort will be made to send a personal letter to all qualified voters and property owners of record of the Town and all property owners of record in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the Special Election. **78 Del. Laws, c. 346. §1**

At the Special Election, every property owner or leaseholder as defined in this Charter, whether an individual, partnership or corporation, shall be entitled to cast one vote and every bona fide resident of the Town of Dewey Beach who is not a property owner or leaseholder as defined in this Charter shall be entitled to cast one vote. At the said Special Election, every property owner or leaseholder, as defined in this Charter, of the territory proposed to be annexed, whether an individual, partnership or corporation, shall be entitled to cast one vote and every bona fide resident of the territory proposed to be annexed who is not a property owner or leaseholder as defined in this Charter shall be entitled to cast one vote. Property owners or leaseholders, as defined in this Charter, whose property or whose improvement located on leased land is exempt from taxation or in not assessed shall not be entitled to vote. The books and records of the Town of Dewey Beach in the case of town property owners, or leaseholders as defined in this Charter or residents and the books and records of Sussex County in the case of property owners, leaseholders as defined in this Charter, or residents of the territory proposed to be annexed shall be conclusive evidence of the right of such persons, firms or corporations to vote at the Special Election.

In the event that an individual, partnership or corporation holds a power of attorney duly executed and acknowledged and specifically authorizing the said individual, partnership or corporation to vote at the said Special Election, a duly authenticated copy of the Power of Attorney shall be filed in the office of the Town Clerk of The Town of Dewey Beach. Said Power of Attorney as so filed shall constitute conclusive evidence of the right of said person, partnership or corporation to vote in the Special Election.

Voting machines shall be used in any annexation election and the form of the ballot to be inserted in the machine shall be as follows:

_____ For the proposed annexation

_____ Against the proposed annexation

(CHECK THE ONE BLOCK FOR WHICH YOU CAST YOUR VOTE)

The Mayor shall appoint three (3) persons to act as Election Officials, at least one (1) of whom shall reside and own property in the Town, and at least one (1) of whom shall reside and own property in the territory proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in the Municipal Building and the Election Officials shall have available, clearly marked, two (2) ballot boxes. All ballots cast by those persons, partnerships or corporations authorized to vote as residents, property owners or leaseholders in the territory proposed to be annexed shall be deposited in one (1) such ballot box, and all ballots cast by those persons, partnerships or corporations who are authorized to vote as residents, property owners or leaseholders of the Town shall be deposited in the other such ballot box. The polling places shall be opened from 1:00 p.m., prevailing time, until 6:00 p.m., prevailing time, on the date set for the Special Election.

Immediately upon the closing of the polling places, the Election Officials shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Election Officials shall make a certificate under their hands of the number of votes cast for and against the proposed annexation, and the number of void votes, and shall deliver the same to the Commissioners of Dewey Beach. The said certificate shall be filed with the papers of the Commissioners of Dewey Beach.

In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from The Town and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Referendum results in an unfavorable vote for annexation, a subsequent election may be held at any time. If a favorable vote for annexation shall have been cast, The Commissioners of Dewey Beach shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds for Sussex County in Georgetown, Delaware, but in no event shall such recordation be

completed more than ninety (90) days following the favorable referendum. The territory considered for annexation shall be considered to be a part of The Town of Dewey Beach from the time of recordation. The failure of The Commissioners of Dewey Beach 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 favorable election. **65 Del. Laws, c. 255; 77 Del. Laws, c. 42**

Section 3. Structure Of Government.

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 Commissioners of Dewey Beach. The Commissioners of Dewey Beach shall consist of five members, to be chosen as hereinafter provided. One of the said Commissioners shall have the title of "Mayor of the Town of Dewey Beach," with duties hereinafter to be prescribed, and who shall also be President of the Commissioners of Dewey Beach.

Section 4. General Powers.

- (a) The inhabitants of the Town of Dewey Beach within the limits and boundaries referred to in Section 2 of this Act, or within the limits and boundaries hereinafter established shall be, and they are hereby, created a body politic and corporate in law and in equity by the corporate name of "Town of Dewey Beach," (hereinafter referred to as the "Town") and under that name shall have perpetual succession, and may have and use a corporate seal which may be altered, changed or renewed at pleasure; may sue and be sued; plead and be impleaded in all Courts of law and equity in the State of Delaware, and elsewhere, by said corporate name; may hold and acquire real property and personal property obtained by purchase, gift, devise or lease within or without its boundaries for any municipal purposes, in fee simple or for lesser estate or interest; and may sell, lease, hold, manage and control such property as its interest may require; and may do all other things which a body politic and corporate may lawfully do to carry out and effectuate the objects and purposes of this Act; subject, however, to other sections of this Act.

Except as hereinafter provided in this Charter relative to the power to issue bonds, the Town shall have all other powers and functions requisite to or appropriate for the governance of the Town; its peace and order; its sanitation; its beauty; the health, safety, convenience, comfort and well-being of its population; the protection and preservation of property, public and private; and all actions, suits or proceedings shall be brought in the name of the "Town of Dewey Beach."

- (b) The enumeration of particular powers by this Charter shall not be held to be exclusive, or to restrict in any manner the general powers conferred herein, but in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise thereof, it is intended that the Town of Dewey Beach shall have, and may exercise all powers which, under the Constitution of the State of Delaware, which would be competent for this Charter to specifically enumerate. All powers of the Town of Dewey Beach, whether expressed or implied, shall be exercised as prescribed by this Charter; or, if not prescribed herein, by ordinance or resolution of the Commissioners.

Section 5. Qualifications Of Mayor And Commissioners.

- (a) Each Commissioner shall be at least 21 years of age.
- (b) Not less than two (2) of the Commissioners shall be designated Resident Commissioners. A Resident Commissioner shall have the following qualifications: 1) shall be a bona fide resident and domiciliary of the Town; and 2) shall own real estate within the Town or be both a settlor/creator and trustee of a valid trust to which real property which is located within the Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for Sussex County, or be a leaseholder of real estate in the Town under a lease of a term of five (5) years or more. Any person applying as a leaseholder candidate pursuant to this subsection will be required to include a copy of a valid lease with his or her candidate filing.
- (c) Other Commissioners must either have the qualifications of a Resident Commissioner as defined above or be an owner of real estate within the Town or be both a settlor/creator and trustee of a valid trust to which real property which is located within the Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for Sussex County, or be a leaseholder of real estate in the Town under a valid lease of a term of five (5) years or more. Any person applying as a leaseholder candidate pursuant to this subsection will be required to include a copy of a valid lease with his or her candidate filing.

- (d) The Commissioner with the title of "Mayor of the Town of Dewey Beach" must be qualified as a Resident Commissioner.
- (e) If any one of the Commissioners shall, during his term of office fail to continue to be qualified as above stated, he shall ipso facto vacate his office. The Commissioners shall be the judges of the qualifications of the members. **76 Del. Laws, c. 273; 78 Del. Laws, c. 346. §2**

Section 6. Board of Elections.

- (a) The Commissioners of the Town of Dewey Beach shall appoint the Board of Elections members for a term of one (1) year. The Board of Elections shall consist of three (3) members. All members of the Board of Elections shall meet the appointment qualifications as specified in 15 **Del.C. § 7501 et seq.**
- (b) Board of Elections appointees shall be confirmed by swearing or affirming, both orally and in writing, the oath specified in 15 **Del.C. §7501 et seq.** Board of Elections appointees shall be sworn or affirmed by the Alderman of the Town of Dewey Beach or the Mayor of the Town of Dewey Beach.
- (c) It shall be the duty of members of the Board of Elections, as empowered by 15 **Del.C. §7501 et seq.** and the ordinances of the Town, to perform prescribed duties with fidelity and without favor or electioneering to accomplish the proper conduct of municipal candidate elections within the Town of Dewey Beach.
- (d) Any member of the Board of Elections may be removed from office for cause after a public hearing by a majority vote of the Commissioners of Dewey Beach.
- (e) Activities of the Board of Elections shall be consistent with the Delaware Freedom of Information Act, 29 **Del.C. §10001 et seq. 77 Del. Laws, c. 42**

Section 7. Elective Offices.

- (a) Each Commissioner shall be elected for a two-year term. All other offices shall be appointive and the person or persons filling such appointive offices shall be appointed by the Commissioners of Dewey Beach. **77 Del. Laws, c. 42**
- (b) In the case of a vacancy created in any office of Commissioner of Dewey Beach or in the office of Commissioner of Dewey Beach having the title of Mayor of the Town of Dewey Beach. either by death, resignation, loss of residence or freeholdship, in the Town of Dewey Beach, or other disqualifying event, or otherwise, the Commissioners of Dewey Beach shall fill such vacancy for the residue of the whole term.
- (c) If any elective or appointive officer, agent or employee be found guilty of any felony anywhere in the United States, he shall forthwith be disqualified to act as such officer and he shall, ipso facto. vacate his elective office; which office shall be filled by the Commissioners of Dewey Beach as in the case of other vacancies.

Section 8. Organization.

- (a) The Commissioners of Dewey Beach shall hold a meeting no sooner than seven (7) days following the annual election for the purpose of organization at the usual place for holding meetings of the Commissioners of Dewey Beach. At that meeting the Commissioners elected shall elect one (1) of the Commissioners as the presiding officer of the Commissioners of Dewey Beach for a term of one (1) year. If the Commissioners are unable to elect one (1) of their number as a presiding officer then such officer shall be chosen for the Commissioners, by lot, by the Commissioners. The presiding officer shall be called the 'Mayor'. **77 Del. Laws, c. 42**
- (b) During the organizational meeting, the newly elected Commissioners shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, the Alderman of the Town of Dewey Beach, or by a holding-over member of the Commission. The Commissioners shall likewise select a Secretary from their own number to serve until the organizational meeting after the next succeeding election. They may also choose other officers and employees as may be determined to be necessary. **77 Del. Laws, c. 42**
- (c) The Commissioners shall by ordinance fix the amount of any salaries or compensation of the employees, officers and agents of the Town, and the time and manner of his or her, or their payment; provided, that the salary or compensation of any such employee, officer or agent shall not be increased, during the term of said office should said appointment thereto be for a designated term. No officer, employee or agent of the Town shall in any form have, take, or receive from the Town or otherwise any compensation, in any form, in addition to the salary or compensation fixed by the Commissioners.
- (d) The Commissioners shall cause to be kept a full and complete record of all officers appointed, and employees and agents hired by the Town, containing the names of such officers, employees and agents, the dates of their

employment, any salary of compensation to be by them received and the date of the termination of their services. In the event that any person holds office for an indefinite term, the record shall so state.

Section 9. Method Of Filing For Office Of Town Commissioners

No person shall be voted upon as a candidate for the office of Commissioner unless at least thirty (30) days before the date set for the election of said officers he shall have filed with the Commissioners of Dewey Beach a letter or other certificate setting forth that he will be a candidate for a certain designated office. The Commissioners of Dewey Beach shall not permit the name of any such candidate to be filed except such candidate as shall meet the requirements of Section 5 of this Chapter.

Section 10. Manner Of Holding Elections

- (a) Annual municipal elections shall be held on the third Saturday of the month of September, except that, in any year when the third Saturday of the month of September conflicts with either day of Rosh Hashanah (Jewish New Year) or Yom Kippur (Jewish Day of Atonement), annual municipal elections shall be held on the fourth Saturday of the month of September. Annual municipal elections shall be held from 10:00 a.m. to 6:00 p.m. at such place or places as shall be determined by the Commissioners, due notice of which shall be given by posting notices thereof in two (2) conspicuous places within the corporate limits of the Town of Dewey Beach; due notices of which shall be given in compliance with the applicable provisions of 15 Del. C. § 7501 et seq. In the event that there is no contest for any of the several offices up for election in any year, the polls shall not open. The Town Commissioners shall have the power and authority to enact by ordinance certain voter registration procedures as are deemed reasonably necessary to provide for the orderly and efficient conduct of municipal elections, provided that no such ordinance shall alter the qualifications of voters as herein below set forth, nor shall such ordinance unduly impair the right to vote in a municipal election. No person may be eligible to vote unless properly registered. No person may cast more than one ballot. **74 Del. Laws, c. 370; 77 Del. Laws, c. 42; 77 Del. Laws, c. 354**
- (b) Each person eighteen years of age or older, who is a bona fide resident and domiciliary of the Town of Dewey Beach, or who is an owner of real property within the Town, or who holds a valid lease for a term of five years or more on property within the Town, shall be qualified to vote in the election of Town officials as herein provided. A leaseholder seeking qualification as a voter under this subsection will be required to file a copy of a valid lease at the time of voter registration. A non-resident persons eighteen years of age or older who is both a settlor/creator and trustee of a valid trust to which real property which is located within the Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for Sussex County shall be qualified to vote in the election of Town officials, provided that the Trust document which identifies the trustee(s) and the settlor(s)/creator(s) must be presented at the time of registration. **74 Del. Laws, c. 369; 78 Del. Laws, c. 346. §3**
- (c) Every election shall be held under the supervision of the Election Officials. The Election Officials shall consist of one (1) Inspector of the Election and such Officers of the Election as shall be appointed by the Commissioners of Dewey Beach. The Inspector and such Officers constituting the Election Officials shall be qualified voters of the Town of Dewey Beach and shall be appointed for that purpose by the Commissioners at least thirty (30) days before such Annual Municipal Election. If, at the opening of the polls, the Election Officials (or any one of them) are not present, then in such case the persons qualified to vote at such election and present at the opening of the polls shall, by viva voce, select a qualified voter or voters to act as the Election Officials to fill such vacancies caused by the absence of the Election Officials. Election Officials shall be Judges of the Election, and shall decide upon the legality of the votes offered. The Election Officials shall keep a true and accurate list of all voters voting at the Annual Municipal Election. The Board of Elections shall have the power to subpoena persons and officers of the Town, and to subpoena books, records and papers relative to the determination of the validity of any vote or votes offered. **77 Del. Laws, c. 42**
- (d) Upon the close of the election, the votes shall be computed and announced publicly and the qualified persons having the highest number of votes shall be declared, by the Election Officials, to be duly elected; and such persons shall continue in office during the terms for which they were chosen, or until their successors are duly elected or appointed and qualified. **77 Del. Laws, c. 42**
- (e) In the event of a tie vote for any office, the Election Officials shall determine the tie by lot. **77 Del. Laws, c. 42**
- (f) The Election Officials, as soon as possible after the polls have closed and the results announced, shall deliver all election documents, envelopes, and absentee ballots to the Board of Elections. The Board of Elections

shall secure the documents, envelopes, and absentee ballots until such time that they need to canvass the election. **77 Del. Laws, c. 42**

- (g) The Election Officials shall enter in a book, to be provided for that purpose, a minute of the election, containing the names of the persons chosen. The book, containing such matters, shall be preserved by the Town Commissioners and shall be evidence in any Court of Law and Equity. **77 Del. Laws, c. 42**
- (h) Ballots may be cast in person or by absentee ballot in all elections. Absentee voting shall be in compliance with the applicable provisions of 15 **Del.C. §7501 et seq. 77 Del. Laws, c. 42**

Section 11. Meetings.

- (a) The Town Commissioners of Dewey Beach shall hold meetings at the call of the Mayor (or majority of Commissioners).
- (b) The Town Commissioners of Dewey Beach shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at such meeting, called as aforesaid. There shall be not less than one meeting held per calendar quarter.
- (c) All meetings shall be subject to the provisions of Title 29, Chapter 100, Delaware Code.

Section 12. Quorum.

A majority of the Commissioners appointed or elected to the Town Commissioners of Dewey Beach shall constitute a quorum.

Section 13. Rules Of Procedures And Minutes Of The Town Commissioners.

The Commissioners shall determine their own rules of procedure and order of business. They shall keep a record of their proceedings and the record shall be open to public inspection. Every ordinance shall be introduced in writing. No ordinance shall be passed unless it shall have the affirmative vote of a majority of the Commissioners. Vote on any ordinance shall be by voice vote, and the vote of each Commissioner on any ordinance shall be entered on the record.

Section 14. Duties And Powers Of The Mayor.

- (a) The Mayor of the Town of Dewey Beach shall be sworn or affirmed to perform the duties of his office with fidelity.
- (b) He shall be the chief executive of the Town. It shall be his duty to preside at all meetings of the Commissioners and he shall have a vote therein and in case of his absence a President Pro Tempore shall be appointed in his place from the other Commissioners. He shall execute on behalf of the Town when authorized by a majority of the Commissioners all agreements, contracts, bonds, deeds, leases and other documents necessary to be executed. He shall have the power to appoint the other Commissioners to be in charge of any departments or divisions of the Town Government created by the Commissioners. At least one Commissioner must be appointed to each department or division created by the Commissioners. The Mayor shall be a member, ex-officio, of all committees. It shall be the duty of the Mayor to see that the laws and ordinances of the said Town are faithfully executed and the Mayor shall perform all duties imposed upon him by this Charter. The Mayor shall also have the power to administer oaths and affirmations. The Mayor shall also have the power and authority to solemnize marriages within the boundaries of the Town of Dewey Beach. **72 Del. Laws, c. 425**
- (c) As a Commissioner of Dewey Beach and as Mayor of the Town of Dewey Beach, he shall have the same right as other Commissioners to vote on all matters, and debate any question from the floor.
- (d) Upon the expiration of his term of office or upon resignation or removal from office, he shall forthwith turn over all records, books, papers, documents and other things belonging to or appertaining to his office of Mayor of the Town of Dewey Beach. He shall also pay over to the Treasurer all monies in his hands belonging to the Town.

Section 15. Town Manager

- (a) The Mayor of the Town of Dewey Beach, with the concurrence of a majority of all the elected Commissioners of the Town, may appoint a Town Manager who shall be the Chief Administrative Officer of the Town and who shall be the Secretary of the Commission of the Town and the Treasurer of the Town.

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- (b) The Commissioners of the Town of Dewey Beach shall impose such qualifications for Town Manager as may be deemed necessary; provided, however, that no person holding the office of Mayor or Commissioners shall be chosen to be Town Manager during his term of office as Mayor or Commissioner.
- (c) The Town Manager may be removed for just cause by a majority vote of the Commissioners of the Town of Dewey Beach. At least thirty (30) days before such removal shall become effective, the Commission shall, by a majority vote of all the elected Commissioners thereof, adopt a preliminary resolution stating the reasons for his removal. The Manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Commission, by a majority vote of all the elected Commissioners thereof, may adopt a final resolution of removal. By the preliminary resolution, the Commission may suspend the Town Manager from duty but shall in any case cause to be paid him forthwith any unpaid balance of his salary for the next three (3) calendar months following the adoption of the preliminary resolution. **78 Del. Laws, c. 346. §4**
- (d) In case of the absence or disability of the Town Manager, the Commission may designate some qualified person who may be an elected or appointed official of the Town of Dewey Beach to perform the duties of such office during his absence or disability. The compensation which the Town Manager shall receive for the performance of his duties shall be fixed by the Commission of the Town of Dewey Beach. **70 Del. Laws, c. 191**

Section 16. Responsibilities of the Town Manager.

- (a) The Town Manager shall be responsible to the Commissioners of the Town of Dewey Beach for the proper administration of the affairs of the Town placed in his charge and to that end, he shall have the power to make such appointments and to hire such employees at such compensations as the Commissioner, by resolution, shall determine, subject to such rules and regulations as may be adopted by the Commissioners. All employees may be removed by the Town Manager at any time for just cause unless otherwise provided by resolution of the Commissioners. He shall exercise his sole discretion in the appointment or hiring of any such employees. The Town Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by him. The Commissioners of the Town of Dewey Beach shall sit as a Board of Appeal for the protection of Town employees at those times when the majority of all the Commissioners are agreed that a review of the action of the Town Manager would be in the best interest of the Town of Dewey Beach. The decision of the Commissioners in such case shall be final and conclusive. **78 Del. Laws, c. 346. §5**
- (b) It is the intention of this Charter that, in the performance of his duties, and in the exercise of his powers, the Town Manager shall not be influenced by any matters whatsoever of a political or fractional nature. It is the intention of this Charter that the Town Manager shall be guided solely by the matters of expediency and efficiency in the administration of the affairs of the Town placed in his charge. Except for purposes of injury, the Commissioners shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.
- (c) It shall be the duty of the Town Manager to supervise the administration of the affairs of the Town under his charge and to make such reports to the Commissioners as are required by the Commission. He shall make such recommendations to the Commission concerning the affairs of the Town as may seem to him desirable. He shall keep the Commission advised of the financial condition and future needs of the Town. He shall prepare and submit to the Commission the annual budget estimate. He shall render to the Commission at the regular monthly meeting of each and every month a true, accurate and detailed account of all the monies collected or received by him in the performance of his duties and shall promptly turn the same over to the Commission.
- (d) In conjunction with the Mayor of the Town of Dewey Beach, he shall sign warrants pursuant to appropriations or resolutions theretofore made for the Commission. He shall prepare and submit to the Commission such reports as may be required by the Commission., he shall perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Commission.
- (e) The Town Manager and such other officers of the Town as may be designated by vote of the Commission shall be entitled to seats in the meetings of the Commission but shall not vote therein.
- (f) The Town Manager shall have charge and supervision of the sewer system, water system, street lighting, streets, gutters, curbs, sidewalks, boardwalks, jetties, piers, parks, and other administrative affairs of the Town and all work relating thereto. He shall have charge of and shall collect all taxes, assessments, rentals, franchise fees, license fees, or other charges due the Town. He shall have charge of the administration of all

provisions of this Charter and ordinances and resolutions of the Commission relating to the affairs of the Town when not otherwise provided for by this Charter or by any ordinance or resolution of the Commission.

- (g) He shall keep a full and strict account of all monies received and all disbursements made by him and such accounts shall, at all times, be open to inspection by the Commission.
- (h) He shall give to The Town of Dewey Beach a bond, if required by the Commission, in such sum and in form with security satisfactory to the Commission for the faithful performance of the duties of his office and the restoration to The Town of Dewey Beach, in case of his death, resignation, or removal from office of all books, papers, vouchers, money other property of whatever kind in his possession belonging to the Town.
- (i) In the event of a vacancy in the Office of the Town Manager for any reason or reasons whatsoever, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges, and powers theretofore reposed in his predecessor or predecessors in office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.
- (j) Upon the death, resignation, or removal from the office of the Town Manager, the Mayor, with the approval of a majority of all elected members of the Commission, shall appoint some suitable person, who may be an elected or appointed official of the Town of Dewey Beach, to perform the duties of Town Manager; on an interim basis for ninety (90) days with the option of renewal of the appointment for two (2) additional terms of ninety (90) days or until a Town Manager is appointed, whichever period is shorter. **70 Del. Laws, c. 191; 78 Del. Laws, c. 346. §5**

Section 17. Audit Committee/Auditors

- (a) The Audit Committee shall be composed of not less than three (3) property owners, the majority of whom are bona fide residents of the Town of Dewey Beach, who have no relationship to the Town that may interfere with the exercise of their independence from the Town's management and the Town. The Chairperson and members of the Committee shall be appointed by the Council at each annual meeting to serve for a term of one (1) year. Each member of the Committee shall be financially competent and at least one (1) member shall have accounting or related financial management experience. The principal purpose of the Committee is to provide oversight of the annual audit of the Town financial statements, to recommend the hiring of an independent financial audit firm, to assess the qualifications and independence of the firm and to negotiate a price for the audit, to review the performance of the independent audit firm, to review the firm's audit report and assessment of the Town's accounting and reporting practices and internal control systems, and to recommend acceptance or rejection by the Council of the audit report.
- (b) It shall be the responsibility of the Independent Auditors to perform an audit of the annual financial statements of the Town of Dewey Beach in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States. The Auditors, on or before the 15th day of August following the Town's fiscal year end shall deliver their report, including their opinion as to whether the Town's basic financial statements, together with required Supplemental Information, present fairly, in all material respects, the financial position of the governmental activities and each major fund of the Town, and the respective changes in financial position and cash flows, where applicable, in conformity with accounting principles generally accepted in the United States of America. In addition, other Supplemental Information for the General Revenue and Special Revenue Funds shall be provided with comparative amounts for the preceding three (3) fiscal years. A summary of the report shall be printed in a newspaper which has general circulation in the Town in the issue immediately succeeding their annual report, with a statement that the full text of the report can be viewed on the Town's website, where a full copy of the report shall be accessible to visitors to the website. The financial statements are the responsibility of the Town's management. The Independent Auditor's responsibility is to render an opinion on the Town's financial statements based on their audit examination. **78 Del. Laws, c. 346. §6**

Section 18. Town Solicitor

The Commissioners may select and appoint a Town Solicitor who shall be removable at the pleasure of the Commissioners of Dewey Beach either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware. It shall be his duty to give legal advice to the Commissioners and other offices of the Town and to perform other legal services as may be required of him by the Commissioners. **78 Del. Laws, c. 346. §7**

Section 19. Police Force

- (a) The Town Commissioners may, in their discretion, establish a police force, make rules and regulations as may be necessary for the organization, government and control of a Police Force. They 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. They shall have such other duties as the Town Commission shall from time to time prescribe. The police force shall be subject to the direction of the Town Manager acting on behalf of the Town Commissioners. **70 Del. Laws, c. 191**
- (b) The Town Commissioners may, if it is deemed necessary, make rules and regulations for the organization of a Beach Patrol. The Beach Patrol would, if so organized, enforce regulatory measures ordained by the Commissioners in respect to the cleanliness, uses and enjoyment of the Town Beach front; and, would perform such other duties as the Commissioners may prescribe. In the performance of their duties, they may be vested with all the powers and authorities of a member of the Town Police Force.

Section 20.1 Alderman and Assistant Alderman.

The Commissioners are authorized to establish an Alderman's Court in a manner consistent with Constitution and laws of the State of Delaware.

20.2 Appointment. An Alderman and Assistant Alderman shall be recommended by the Town, appointed by the Governor and confirmed by the Delaware State Senate. Once confirmed the Alderman and/or Assistant Alderman shall be sworn into office by the Mayor, and evidence of his or her appointment shall be recorded at the Recorder of Deeds in Sussex County.

20.3 Appointment and Reappointment Nomination. When a vacancy occurs the Town Council shall by majority vote, submit a list of one or more qualified candidates and the application(s) and supporting documentation to the Governor for consideration of appointment. Not less than thirty (30) days prior to the expiration date of an Alderman's or Assistant Alderman's term, the Town Council shall by majority vote, determine whether or not to recommend reappointment of the Alderman or Assistant Alderman for an additional term. The Town shall submit a letter of recommendation to the Governor for consideration of reappointment, or alternatively, its written recommendation of one or more qualified candidates along with their applications and supporting documentation to the Governor for consideration of appointment.

20.4 Term of Office. The Alderman and Assistant Alderman shall serve a two - year term and shall remain in office until either reappointed or a successor is duly qualified.

20.5 Removal. An Alderman or Assistant Alderman may be censured or removed subject to the provisions of Article IV, Section 37 of the Delaware Constitution of 1897 and the Rules of the Court on the Judiciary. An Alderman or Assistant Alderman may also be replaced upon expiration of a term, following Senate confirmation of a new Alderman or Assistant Alderman.

If any Alderman or Assistant Alderman has been removed from office by Senate confirmation of a new nominee or by action of the Court on the Judiciary, he/she shall, within five (5) days of the Senate confirmation or Court on the Judiciary action, deliver to the Mayor all the books and papers belonging to the Town, and shall within five (5) days pay over to the Treasurer all moneys in his/her hands. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or Assistant Alderman, the Mayor may require the auditor of the Town to make an audit of the books and papers of the official who has been replaced. Upon the neglect or failure to deliver all the books and papers to the Mayor within the time specified by this Charter, or to pay over all of the moneys to the Treasurer within the time specified, the Alderman or Assistant Alderman, so replaced, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$ 100) for each day that he fails to deliver the books and papers to the Mayor or to pay over all moneys to the Treasurer.

20.6 Vacancy. In the absence of the Alderman, or when a vacancy occurs in the office of Alderman, the Assistant Alderman shall exercise all the powers, duties, and responsibilities of the Alderman as set forth in this Charter. When a vacancy occurs for an Alderman and there is no Assistant Alderman to act as Alderman,

and the Delaware State Senate is recessed for more than 6 weeks, the Town may elect to have a retired Magistrate act as Alderman pending confirmation of a nominee with the Delaware State Senate. Such retired Magistrate must meet the appointment qualifications of 10 Del. C. Section 9211(a) to serve in such capacity, and shall receive such compensation as may be established by the Town Council. A retired Magistrate acting as Alderman shall have all powers, duties, and responsibilities of the Alderman as set forth in this Charter.

20.7 Qualifications. Any person appointed to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, a United States citizen, of good character and reputation, shall live within Sussex County, and shall not be a member of the Town Council or otherwise an officer or employee of the Town of Dewey Beach.

20.8 Oath of Office. Within 14 days of Senate confirmation the Alderman or Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of office honestly, faithfully, diligently, and to uphold and enforce the Charter of the Town of Dewey Beach and ordinances duly enacted by the Town Council of the Town of Dewey Beach.

20.9 Duties. It shall be the duty of the Alderman and Assistant Alderman to adjudicate actions brought under any ordinances legally enacted or established by the government of the Town and to carry into effect all legally binding orders and directions of the Town Council made pursuant to any law of this State or its Constitution. In carrying out the duties of the office, an Alderman or Assistant Alderman shall comply with the ethical responsibilities required of Aldermen in this state and shall operate the court in accordance with the Criminal Rules of Procedure for the Alderman and Mayor Courts of the State of Delaware.

20.10 Compensation. The compensation of the Alderman and Assistant Alderman shall be fixed by the Town Council and approved in conjunction with the Town Council's adoption of the Town operating budget. If no change is proposed and approved by the Town Council, the previously established compensation rate shall continue in effect until revised by a majority vote of the Town Council. Such compensation shall not be contingent upon or related to the amount of any civil or penal fines imposed or collected through the Alderman Court and shall not be reduced during the term of office.

20.11 Alderman's Docket. 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 Assistant Alderman shall record all official acts and proceedings in the Alderman's Docket. All criminal matters, but not civil matters, shall be entered into the Delaware Criminal Justice Information System (DELJIS) as required by law.

20.12 Jurisdiction. The Alderman and Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace, offenses and violations of any civil or criminal ordinance of the Town committed within the corporate limits of the Town of Dewey Beach. As to such offenses or violations over which they are given jurisdiction by this Charter or by any other law of the State of Delaware, the Alderman and Assistant Alderman shall be authorized and empowered to hold for bail, set bail, impose fines, or imprison, for each offense or violation in accordance with the penalties provided by this Charter, by any Town Ordinance enacted hereunder, or as provided by any law of the State of Delaware; provided however, that the maximum fine which the Alderman or Assistant Alderman may impose shall never exceed the limits established by this Charter.

20.13 Civil and Criminal Penalties; Costs. Neither the Alderman nor the Assistant Alderman shall impose any penalty in excess of Five Hundred Dollars (\$500) exclusive of costs nor imprison any offender for more than thirty (30) days, or both, except as otherwise specifically provided in this Charter or by state statute; but the Alderman and Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by ordinance or resolution of the Town Council.

20.14 Monthly Report to Town Council. The Alderman and Assistant Alderman shall prepare and submit a written monthly report to the Town Council reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the Town all such fines and penalties at such times as the

Town Council shall direct. Neither the Town Council nor the Mayor may establish or communicate an expected revenue budget for the Alderman Court.

20.15 Alderman Court Facilities and Staff. The Town of Dewey Beach shall provide adequate and appropriate facilities and staff to facilitate the independent judicial operations of the Alderman Court. Facilities shall be separate from conflicting town operations, including, but not limited to, police agency functions. The town may house the Alderman Court in a common municipal building, so long as the Alderman's Court is provided space physically separate from other town functions and is further situated in such a manner to foster public confidence in the independence of the Court. Likewise, staff assigned to the Court shall not be shared with conflicting town government operations. **78 Del. Laws, c. 232**

Section 21. Remedies, Powers And Methods For The Collection Of Assessments And Other Charges Due The Town.

- (a) A remedy by distress as now prescribed by law is hereby preserved to the Commissioners for the collection of any assessments, fees, warrants or other charges for which they may be responsible.
- (b) At any time after the delivery of the duplicate annual tax list or warrant or any other list of charges due the Town of Dewey Beach, the Town Manager may in the name of the Commissioners of Dewey Beach institute suit before any Court of the State of Delaware, in any of the Counties of the State, for the recovery of the unpaid tax, assessment, license fee, or other charge, in an action of debt, and upon judgment obtained, may issue Writs of Execution as in case of other judgments recovered. **70 Del. Laws, c. 191**
- (c) The said execution shall constitute a lien upon all the personal property of the taxable within the County where the judgment shall have been obtained, which by virtue of such execution shall be levied upon within thirty (30) days after the issuance thereof, and such lien shall have priority over all other liens against said personal property created or suffered by the taxable, except such liens thereon which may have been created in respect to County Taxes, although such other liens be of date prior to the time of the attachment of the said tax liens.
- (d) No taxes or assessments may be imposed on real or personal property or tax or assessment rates changed unless approved by referendum

Section 22. Town Budget

- (a) The fiscal year for the Town of Dewey Beach shall begin April 1, and end March 31.
- (b) Annually each year and not later than the last week in February, the Commissioners shall prepare a rough draft of a Town Budget. From this rough draft the Town Commissioners of Dewey Beach shall, not later than the second Saturday of March of each year, prepare the Town Budget, containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.
- (c) 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 the condition thereof.
 - 3. The amount of the debt of the Town, together with a schedule of maturities of bond issues, and the amount of any reserve funds.
 - 4. An itemized statement of all other estimated expense to be incurred in the affairs of the Town.
 - 5. A statement of the amount required for interest on the bonded debt, the amount necessary to pay any Bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds".
 - 6. An estimate of the amount of money to be received from taxes, assessments, and all other anticipated income of the Town from any source or sources whatsoever.
- (d) The Town Commissioners shall, so far as possible, adhere to the Budget so adopted in the making of appropriations. **78 Del. Laws, c. 346. §8**

Section 23. Enumeration Of Powers

- (a) Not by way of limitation upon the power vested in the Town Commissioners to exercise all powers delegated by this Charter to the municipal corporation of the Town Commissioners of Dewey Beach except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Town

Commissioners are vested by this Charter with the following powers, which may be exercised by said Commissioners in the interest of good government and the safety, health, and welfare of the Town, its inhabitants and affairs, that is to say:

1. To provide for and preserve the health, peace, safety, cleanliness, ornament and good order of the Town.
2. To prohibit, or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements, and games.
3. 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.
4. To provide for or regulate the numbering of houses and lots on the streets, and the naming of streets and avenues.
5. For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the number of buildings or removal of dwelling houses and other buildings; to establish a code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; zone or district the Town and make particular provisions for particular zones or districts with regard to building or building materials; and, generally to exercise all the powers and authorities vested in the legislative body of cities and incorporated towns under by the Constitution and Laws of this State.
6. To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping offices for providing services for the Town.
7. To regulate or prevent the use of guns, airguns, spring guns, pistols, sling shots, beanshooters, and any other devices for discharging missiles which might cause bodily harm or injury to property; and to regulate or prevent the use of fireworks, bombs, and detonating works of all kinds.
8. To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, tapping fee, charge growing out of abatement of nuisances and the like, laying out and repairing sidewalks, or other charge due the Town and to sell the same.
9. To provide for the collection of and disbursement of all monies 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 the Charter.
10. 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 kinds or forms of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Town Commissioners 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, that in no event shall the indebtedness of the Town, for any and all purposes, at any one time exceed in the aggregate One million five hundred thousand dollars (\$1,500,000). **68 Del. Laws, c. 354**
11. 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.
12. To inquire into and investigate the conduct of any officer, office, agent, or employee of the Town or any municipal affair, and for any such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and production of books, papers or other evidence by summary process.
13. 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 Commissioners 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, or designed to prevent the introduction or spread of infectious or contagious diseases, or to prevent nuisances affecting the same.
 - a. Qualified voters of the Town of Dewey Beach, as more specifically defined in Section 10(b) of this Charter, shall have the power to petition to require reconsideration by the Commissions of Dewey Beach (hereinafter 'the Commissioners') of any adopted Ordinance and to approve or reject it at a referendum election as provided herein: provided, however, that such power of petition and

referendum shall not extend to the budget or capital program or any emergency ordinance or any ordinance relating to the appropriation of money.

- b. A Referendum Petition, signed by persons eligible to vote in the annual municipal election as prescribed in this Chapter equal in number to at least thirty-three and one third percent (33 1/3%) of the total number of voters who voted in the annual municipal election immediately preceding the execution of the Referendum Petition with the local address of the person so signing, or three hundred (300) such persons as aforesaid, whichever is greater, and authenticated in accordance with subsection c, below, shall be presented to the Commissioners of Dewey Beach at the next regular meeting of the Commissioners following the date of adoption of the ordinance sought to be reconsidered, or the Petition shall fail and it shall not be the subject of a referendum. If there are less than twenty-eight (28) days from the date of the adoption of the Ordinance sought to be reconsidered until the next regular meeting of the Commissioners, the Petition for Referendum shall be presented at the first regular meeting following the expiration of the said twenty-eight (28) day period or the Ordinance sought to be reconsidered shall not be the subject of a referendum. Each copy of such petition shall contain and have attached thereto throughout its circulation the full text of the ordinance sought to be reconsidered.
- c. Each original Referendum Petition shall have attached to it, when filed, a sworn, validly notarized affidavit executed by the circulator of the petition stating that he or she personally circulated the petition, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be, that each such person who signed it is qualified to sign the petition and that each signer had an opportunity, before signing, to read the full text of the ordinance sought to be reconsidered. In addition, if the circulator of the petition sends the petition to a qualified signer to sign not in the presence of the circulator, the qualified signer signature shall be notarized.
- d. Within twenty (20) days after the petition is filed with the Commissioners at a regular meeting, the Town Manager shall complete a certificate certifying its sufficiency or specifying any insufficiency, and shall promptly send a copy of the certificate to the circulator of such petition or the acknowledged representative of the Petitioners by certified mail with return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended one (1) time if the circulator files a Notice of Intention to Amend with the Town Manager within two (2) days after receiving a copy of the certificate and files a supplementary petition upon additional papers within five (5) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of this Section concerning form, content, and the affidavit of the circulator. Within five (5) days after a supplemental petition is filed, the Town Manager shall complete a certificate as to the sufficiency of the supplemental petition, as amended, and shall promptly send a copy of such certificate to the circulator by certified mail with return receipt requested, as in the case of the original petition.
- e. If a petition has been certified to be insufficient and the circulator has not filed Notice of Intention to amend, or if an amended petition has been certified insufficient, the circulator may, within two (2) days after receiving the copy of such certificate file a request that it be reviewed by the Commissioners. The Commissioners shall review the certificate at the next regular meeting following the filing of such request and approve or disapprove it, and the determination of the Commissioners as to the sufficiency of the petition shall be final.
- f. Any person or persons, jointly or severally, aggrieved by the decision of the Commissioners may present to the Superior Court of the State of Delaware, a petition duly verified, setting forth that such decision is invalid, in whole or in part, specifying the grounds of such invalidity. Such petition shall be presented to the Court within thirty (30) days following the determination by the Commissions as to the insufficiency of such petition. Upon presentation of the petition, the Court may allow a Writ of Certiorari directed to the Commissioners to review such decision of the Commissioners and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner or their attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the Writ shall stay proceedings upon the decision or determination appealed from. The Court may reverse or affirm, wholly or partly, or may modify the determination brought up for review.

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- g. Upon the filing of the Petition for a Referendum with the Town Manager, the ordinance sought to be reconsidered shall not be stayed or suspended from taking effect, and such Petition for a Referendum shall terminate upon the happening of any of the following events:
- (1) There is a final determination of insufficiency of the Petition; or
 - (2) The Petition is withdrawn by the circulators thereof or sufficient copies thereof are withdrawn so that there are insufficient numbers of signatures as required by this Section; or
 - (3) The Commissioners repeal the ordinance; or
 - (4) Thirty (30) days have elapsed after a vote by the voters on the ordinance; or
 - (5) There is a final determination by the Superior Court.
- h. The Commissioners shall reconsider the referred ordinance at the first regular meeting after the Petition for a Referendum has been finally determined to be sufficient. If the Commissioners determine not to repeal the referred ordinance, the referred ordinance shall be submitted to the voters of the Town of Dewey Beach at an election.
- i. The vote of the eligible voters on a referred ordinance shall be held not less than thirty (30) days and no later than sixty (60) days from the date the Commissioners determined not to repeal the referred ordinance. If the Annual Municipal Election is to be held within the period prescribed in this Section, such referendum shall be considered as part of that election. If the Annual Municipal Election is not to be held within the period prescribed in this Section, the Commissioners shall provide for a special election. If the Commissioners fail to hold a referendum within the time specified in this Section, the ordinance for which the petition was filed shall be deemed to be repealed at the expiration of sixty (60) days from the date that the Commissioners determined not to repeal the referred ordinance and such ordinance shall not be passed in the same form for a period of one (1) year from the effective date of repeal.
- j. The notice of the time and place of holding the said Special Election shall be printed in at least two (2) issues of a newspaper having a general circulation in the Town of Dewey Beach within thirty (30) days immediately preceding the date of the Special Election.
- k. In all electoral proceedings, the Special Election shall be conducted in the manner of the annual election and the Election Judge and Election Board, as specified in Section 10 of this Charter and in Chapter 48 of the Code of Dewey Beach, shall oversee the proceedings of the election and have the authority and power to conduct the election.
- l. Immediately after the closing of the polling place or places, the Election Board shall count the ballots for and against the proposition as presented, and shall announce the results thereof. The Election Board shall make a certificate under their hands of the number of votes cast for and against the proposed ordinance and the number of void votes, and shall deliver the same to the Commissioners. The said certificate shall be filed with the Office of the Town Manager.
- m. The form of the ballot of the said Special Election shall be as follows:
- () For the Referred Ordinance
() Against the Referred Ordinance
- 78 Del. Laws, c. 346. §9**
- n. If the majority of the voters voting on a referred ordinance vote against such ordinance, it shall be considered repealed upon the certification of the result of the election by the Election Board. No ordinance which has been repealed as the result of a referendum shall be passed again in the same form by the Commissioners of the Town of Dewey Beach for a period of one (1) year from the date of the referendum.
- o. The Commissioners may, in their sole discretion, elect to adopt an ordinance, except for an ordinance specified not to be the subject of a referendum proceeding in subsection a, hereinabove, subject to a referendum. In such event, the Commissioners shall, at the same time such ordinance is adopted, include in the language of said ordinance that such ordinance shall be the subject of a referendum. Upon the passage of the ordinance adopted subject to a referendum, such ordinance shall be suspended from taking effect until thirty (30) days after the results of the referendum, such referendum are returned indicating that the ordinance is approved by referendum.

Nothing contained herein shall operate so as to require the Commissioners to exercise their discretion to submit any ordinance to a referendum; and nothing contained herein shall operate to

restrict the right of the eligible voters of the Town of Dewey Beach to initiate a referendum pursuant this Section. However, the decision of the Commissioners to submit an ordinance to a referendum shall, in the case of such ordinance, constitute the only referendum to which such ordinance shall be subjected; and there shall be no right to subject such ordinance to an additional referendum. **78 Del. Laws, c. 346, §9**

14. The Commissioners of the Town of Dewey Beach shall have the authority to raise funds by charging a fee to owners of vehicles which are parked in the streets and other areas accessible to the public.
15. The Commissioners of the Town of Dewey Beach shall have the authority to grant licenses and impose fees for licenses, issue permits, and regulate any activity within the corporate limits specifically including any beach property whether previously dedicated, owned by the State of Delaware, or the Town, except as subsection (b) of this section may apply.
- (b) Notwithstanding any provision in this Section or in this Act to the contrary, the Town Commissioners shall have no power or authority to impose or require any fee, tax, license or permit regarding use of the beaches by persons for individual recreational purposes. **76 Del. Laws, c. 273**
16. To levy and collect tax upon the renting or leasing of residential property located within the municipal boundaries of Dewey Beach, except that no accommodations tax for a residential rental shall be collected upon a valid rental agreement or valid lease agreement with an initial term of at least one (1) year. The accommodations tax on a residential rental shall be as set from time to time by the Commissioners of Dewey Beach, but not to exceed three percent (3%) of the rent or lease amount unless approved by referendum. This residential rental accommodations tax does not apply to the rental or lease of any property being assessed a public accommodation lodging excise tax under Chapter 61 of Title 30. **77 Del. Laws, c. 29, §1**

Section 24. Collection Of Charges Due The Town

- (a) In the collection of license fees, charges growing out of abatement of nuisances, or other charges due the Town and authorized to be levied and charged against the owner or owners of property within the Town, the collection thereof shall be under the supervision of the Town Manager. It shall be the duty of the Town Manager to collect all such rentals, bills, fees, and charges. He shall, in conjunction with the police force keep the Commissioners advised as to any and all failures or neglects to pay the same.
- (b) In respect to the amount of any such license fees, charges growing out of abatement of nuisances, laying out and repairing sidewalks, or other charges due the Town and authorized to be levied and charged against the owner or owners of property within the Town, and which owner or owners of property within the Town shall have failed or neglected to apply the same within the time prescribed by the provisions of this Charter, or a duly adopted Ordinance of said Town and should the required procedure, if any there be, have been complied with as regards the imposition thereof against such owner or owners, the Town Commissioners shall issue a warrant to the Town Manager directing him to collect the same against the person or persons, firm or firms, corporation or corporations from which it shall be due, together with interest from the due date and other charges attendant thereto. Thereafter, from the date of the issuance of any such warrant or warrants, the amount or amounts therein provided shall be and constitute liens upon the respective property or properties of such owner or owners upon which or for which any such rentals, bills, fees or other charges shall have been made and such liens shall, for a period of two years from the date of such warrant or warrants, have priority over any liens, encumbrances or conveyances except tax liens, general or special sewer assessment liens and prior liens of a like nature.
- (c) Nothing contained in this Section shall be construed as a limitation upon the Commissioners of Dewey Beach to establish and fix fines, or other penalty, in a proper case, for neglects or failures nor shall any fines imposed by a judicial officer with reference to any such neglects so enrolled or failures be construed as being within the provisions hereof. **70 Del. Laws, c. 191**

Section 25. Removal Of Obstruction, Nuisances, And Unsanitary Conditions.

- (a) In addition to the power to impose fines and penalties for the maintenance of obstructions, nuisances, and unsanitary conditions, as those terms may be defined by the Commissioners, if the Commissioners either upon their own inspection or upon information obtained from the Town Manager or Police Force, shall deem that such obstruction, nuisances, or unsanitary condition ought to be removed or abated as the case may be, the Commissioners shall enact an ordinance or adopt a resolution or both, to that effect and thereupon shall direct

the Town Manager to forward, to the person or persons continuing or causing such obstruction, nuisances, or unsanitary condition, or to the person or persons who are responsible for its existence or continuance, by the mails of the United States, in a sealed wrapper addressed to his or their last and best known post office address, a notice to remove or abate the same as soon as may be possible. If such person or persons refuse or neglect, for the space of five (5) days after such notice is mailed, to remove or abate the same, the Commissioners may have a warrant issued in the name of the Commissioners of Dewey Beach. The warrant shall command him forthwith to remove or abate such obstruction, nuisance, or unsanitary condition. The Town Manager shall forthwith proceed to remove or abate the same and, to that end, he shall have full power and authority to enter into and upon any lands and premises in the Town. He shall likewise have the authority to take with him such assistants, implements, vehicles or other things as may be necessary and proper to do and perform all matters and things in connection with the removal or abatement of such obstruction, nuisance, or unsanitary condition.

- (b) At the meeting of the Town Commissioners next succeeding the delivery of the warrant to him, the Town Manager shall make a return to the Commissioners of his proceedings upon the warrant and shall specify the costs and expenses of all necessary work, labor, and proceedings incurred by him in the abatement or the removal of the same.
- (c) At such meeting, the Commissioners shall determine, from the return of the Town Manager, the costs and expenses of all necessary work, labor, and proceedings in reference to the abatement or removal of such obstruction, nuisance or unsanitary condition. The Commissioners shall issue or have issued a warrant, containing an itemized account of that information, together with the name and last and best known address of the person from whom the Commissioners shall determine the amount to be due and shall deliver such warrant to the Town Manager. The warrant shall command him forthwith to collect the amount stated to be due thereon from the person or persons designated therein. The Town Manager shall forward to such person or persons, in a sealed wrapper, a true and correct copy of the warrant by depositing the same in the United States mails and addressed to such person's or persons' last and best known post office address. If such person or persons shall refuse or neglect to pay the same to the Town Manager for the use of the Town within thirty (30) days from the date of the mailing of such true and exact copy of the warrant, the Town Manager shall then be authorized and required to collect the same in any of the manners hereinbefore provided. **70 Del. Laws, c. 191**

Section 26. Borrowing Money And Issuance Of Bonds

- (a) The Commissioners of Dewey Beach may borrow money, which in the aggregate shall not exceed One million five hundred thousand dollars (\$1,500,000), and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the Town of Dewey Beach, or such other security or securities as the Commissioners shall elect, for the payment of the principal thereof and the interest due thereon. **69 Del. Laws, c. 45**
- (b) All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the Commissioners of Dewey Beach in pursuance hereof shall be exempt from all State, County or municipal taxes.
- (c) This power or authority to borrow money may be exercised by the Commissioners of Dewey Beach to provide funds for, or to provide for the payment of, any of the following project or purposes:
 - 1. Refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein;
 - 2. Meeting or defraying current annual operating expenses of the Town in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees, or other charges due the Town and available, when paid, for meeting or defraying current annual operating expenses of the Town;
 - 3. Erecting, extending, enlarging, maintaining, and repairing any plant, building, machinery, or equipment or purchasing of any lands, easements and rights-of-way which may be required therefore;
 - 4. Defraying the cost to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter.
- (d) In those cases where the power or authority hereby vested in the Commissioners of Dewey Beach is sought to be exercised for the purpose of refunding any or all outstanding bonds or other indebtedness of the Town at a rate of interest equal to or less than the indebtedness thereby sought to be refunded and in all instances provided for in subparagraph 2 above, it shall not be necessary for the Commissioners of Dewey Beach to call a special election of the taxables of the Town to secure their approval of such borrowing.
- (e) The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for the 2011 Bayard Avenue Construction Project (consisting

primarily of improvements relating to storm drainage and storm water management) shall be only exercised in the following manner:

The Commissioners, after conducting a public hearing in accordance with the procedures provided in this paragraph (e) may authorize, exclusively for the 2011 Bayard Avenue Construction Project the issuance of bonds, certificates of indebtedness, notes or other obligations of the Town under this subsection in an aggregate amount of up to nine hundred and twenty-seven thousand, six hundred and seventy-five dollars (\$927,675.00), if the Commissioners, by Resolution (adopted by at least a majority of all the Commissioner's) approves of the issuance of bonds, certificates of indebtedness, notes or other obligations pursuant hereto for the 2011 Bayard Avenue Construction Project with such Resolution stating the amount of such issuance, or borrowing, the purpose of such issuance or borrowing, the manner, if any, of securing the same, and any other facts relating to the issuance which are deemed pertinent by the Commissioners and in its possession at that time. Before adopting such Resolution, the Commissioners shall first conduct a public hearing on the Resolution authorizing such issuance or borrowing. Notice of the time and place of the public hearing on the Resolution authorizing such issuance or borrowing shall be printed in a newspaper published in the Town at least one (1) week prior to the date set for the public hearing, or , if no newspaper is published in the Town, publication shall be had in a newspaper having a general circulation in the Town, or, at the discretion of the Commissioners, the said Resolution shall be posted at least one (1) week prior to the date set for the public hearing in four (4) public places in the Town. Such Resolution (or a subsequent Resolution adopted by a least a majority of a quorum as established pursuant to Section 12 hereof) shall establish the form of the bonds, certificates of indebtedness, notes or other obligations, 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, whether such bonds, certificates of indebtedness, notes or other obligations shall be sold at either public or private sale, and the name or names thereof and any other relative or appurtenant matter pertaining thereto.

(78 Del. Laws, c. 46)

Section 27. Contracts

- (a) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be awarded to the bidder submitting the lowest and best 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 Two Thousand Dollars (\$2,000.00);
 2. The purchase or contract is for personal or professional services;
 3. The purchase or contract if for any service rendered by a university, college or other educational institution;
 4. The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision thereof;
 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 Commissioners 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 Clerk;
 8. The purchase or contract is for property or services for which the Commissioners determine the prices received after competitive bidding are unreasonable as to all or part of the requirement or were not independently reached in open competition;
 9. A public emergency as determined by the Commissioners exists.

Section 28. Limitation Of Actions.

No action, suit or proceeding shall be brought or maintained against the Town of Dewey Beach for damages, either compensatory or punitive, on account of any physical injury or injuries, death or injury to property by reason of the negligence of the Town Commissioners of Dewey Beach or any of its departments, officers, agents, or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted within ninety days from the happening of such injury or the suffering of such damage, shall notify the Commissioners of Dewey Beach in writing of the time, place, cause, character and extent of the injuries sustained so enrolled or damages suffered. Any suit brought against the Commissioners of Dewey Beach shall be against them only in their capacity as representatives of the Town Government and not as individuals.

Section 29. Compendium.

It shall be the duty of the Commissioners, at reasonable times, or time, to compile the ordinances, codes, orders, and rules of the Commissioners of Dewey Beach. They 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 the same, the Commissioners shall enroll the same in the minutes of the Town Commissioners and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. They shall furnish to the Mayor of the Town of Dewey Beach 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. The Commissioners may provide for indemnification of elected and appointed official from liability arising out of their acts performance in good faith on behalf of the Town.

Section 30. Investigations.

The Commissioners of Dewey Beach shall have the power to inquire into and investigate the conduct of any office, officer or employee of the Town and to make investigations of all municipal affairs, and, for any such purpose or purposes, shall have the power to subpoena witnesses, administer oaths and compel the production of books, papers or other evidence.

Section 31. Survival Of Powers And Validating Section.

- (a) All powers conferred upon or vested in the Town of Dewey Beach or the Commissioners of Dewey Beach 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 Dewey Beach and/or the Commissioners of Dewey Beach precisely as is each of said powers was expressly repeated in this Charter.
- (b) Excepting as may be herein provided expressly to the contrary, every and all Sections or parts of Sections of this Act shall become effective immediately upon its approval.
- (c) The authority vested in the Commissioners of Dewey Beach and the taxables of the Town of Dewey Beach by Section I of this Act shall apply with equal force and effect to all loans which may be required to raise funds necessary to replace and/or repair all such public property or estate as might have been so destroyed or damaged at a time or times preceding the enactment and approval of this Act as well as at a time or times after the date of the enactment and approval hereof.
- (d) All acts or part of acts inconsistent with or in conflict with the provisions of this Act are hereby repealed to the extent of such inconsistency only.
- (e) If any part of this Act shall be held invalid or unconstitutional, such holding shall not, be deemed to invalidate the remaining provisions hereof.
- (f) This Act shall be taken as and deemed to be a public act of the State of Delaware.

Section 32. Effective Date Of Act.

This Act shall become effective on being signed into law by the Governor of the State of Delaware.

Section 33. Prohibition On Gambling.

Except for lotteries as conducted by the State and nonprofit charitable gaming as permitted by State Law, gambling shall be prohibited within the Town limits. **76 Del. Laws, c. 273**

Approved June 29, 1981.

63 Del. Laws, c. 59; 65 Del. Laws, c. 255; 68 Del. Laws, c. 354; 69 Del. Laws, c. 45; 70 Del. Laws, c. 191; 72 Del. Laws, c. 425; 74 Del. Laws, c. 369; 74 Del. Laws, c. 370; 76 Del. Laws, c. 273; 77 Del. Laws, c. 29, §1; 77 Del. Laws, c. 42; 77 Del. Laws, c. 354; 78 Del. Laws, c. 46; 78 Del. Laws, c. 232; 78 Del. Laws, c. 346