

**Greenwood****Incorporation****Section 1.**

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

**Territorial Limits****Section 2.**

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

ALL that certain tract, piece and parcel of land, situate, lying and being in Northwest Fork Hundred, Sussex County Delaware, and being more particularly described as follows:

BEGINNING at a point, said point being located in the northerly right-of-way line of West Market Street, also known as Delaware Route 16; thence from said beginning point North 16 45' East a distance of One Thousand Six Hundred Feet (1,600) feet to a point, said point marking a corner for the present corporate limits of The Town of Greenwood; thence South 73 15' East a distance of Four Thousand Six Hundred Twenty (4,620) feet to a point, said point marking a corner for the present limits of The Town of Greenwood; thence Three Thousand Nine Hundred Sixty (3,960) feet to a point, said point marking a corner for the present corporate limits of The Town of Greenwood; thence North 73 15' West a distance of Four Thousand Six Hundred Twenty (4,620) feet to a point, said point marking a corner for the present corporate limits of The Town of Greenwood; thence North 16' 45' east a distance of Two Thousand Three Hundred Sixty (2,360) feet or such distance as is required to reach the place of beginning, be the contents thereof what they may.

**Annexation Of Territory****Section 3.**

The Town has power to annex additional contiguous territory adjoining the corporate limits of the Town and to apply to annexed additional territory a law, ordinance, resolution, or policy in force in the Town to the annexed territory. For purposes of this section, "contiguous" means that a part of the boundary of the territory sought to be annexed is coterminous with a part of the boundary of the Town or coterminous with another territory proposed for annexation that is coterminous with the boundary of the Town; provided, however, that a territory whose contiguity to the Town's boundary is dependent on the contiguity of a connecting territory may be annexed only if the connecting territory is also annexed.

(a) Initiation of Annexation Proceedings.

- (1) By Petition of the Property Owner. A property owner of territory contiguous to the existing corporate limits of the Town may petition the Town Council in writing to annex the property owner's territory to the Town. A petition under this paragraph must be duly executed and acknowledged by the petitioner, describe the territory proposed for annexation, state the reasons for the requested annexation, and identify the proposed zoning district classification for the territory. The Town Council may, within 90 days following the filing of the petition in the Town Office, vote to accept the petition and proceed under subsection (b) of this section, or to reject the petition. A petition not accepted within 90 days is void, and a petition for the annexation of the territory may not be resubmitted to the Town Council for reconsideration until 1 year from the date of the original annexation petition.
- (2) Resolution of the Town Council. The Town Council may adopt a resolution proposing the annexation of a territory contiguous to the Town. A resolution under this paragraph must describe the territory proposed to be annexed, state the reasons for the proposed annexation, and identify the proposed zoning district classification for the territory. Upon adoption of a resolution under this paragraph, the Town Council shall adopt a resolution under subsection (b) of this section. The resolution under this paragraph may be adopted at the same Town Council meeting at which the resolution required in subsection (b)(1) is also adopted.

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- (b) Annexation Procedure. After annexation is proposed under subsection (a) of this section, the annexation procedure is as follows:
- (1) Resolution and Notice. The Town Council shall adopt a resolution notifying property owners and residents of the Town and the territory proposed for annexation that the Town proposes to annex the territory which adjoins its then-corporate limits.
    - a. A resolution under this paragraph (b)(1) of this section must contain all of the following:
      1. Describe the territory proposed for annexation.
      2. Identify the zoning district classification proposed for the territory.
      3. State that a qualified resident has the right to object to the annexation.
      4. Fix a time and place for a public hearing on the proposed annexation and zoning.
    - b. A resolution under this paragraph (b)(1) of this section may also provide that if the annexation is finally approved, the Town is not obligated to provide municipal services or extend municipal facilities or improvements unless and until the Town Council, in the sole exercise of its reasonable discretion, determines that it is appropriate for the Town to do so or the owner or developer of a territory, or portion of the territory, proposed for annexation, binds itself to any of the following as required by the Town:
      1. To pay in full all costs and expenses, with reasonable surety acceptable to the Town, to provide the municipal services.
      2. To extend or construct the municipal facilities and improvements to serve such lands in strict accordance with all governing federal, State, and Town regulations and standards.
    - c. After adopting a resolution under this paragraph (b)(1) of this section, the Town Council must do all of the following between 14 and 60 days before the date set for the hearing:
      1. Publish a public notice containing the full text of the resolution no less than 1 time in a newspaper of general circulation in the Town in bold print or bordered in black.
      2. Post a public notice containing the full text of the resolution in at least 5 public places in the Town and in at least 1 place, viewable to the public, in the territory proposed to be annexed.
      3. Comply with the applicable provisions of Chapter 92 of Title 29.
      4. Send a copy of the public notice, via certified mail, to the owners of record of the lands proposed to be included in the annexation at their addresses as shown on the public tax records. Written notice to 1 co-owner constitutes notice to all.
  - (2) A qualified resident may file a written objection to the annexation with the Town at any time before the close of the public hearing held under paragraph (b)(3) of this section. For purposes of this section, a “qualified resident” means an individual residing in the territory proposed for annexation who is not a property owner but who is qualified under paragraph (b)(6)a.2. of this section to vote for the annexation.
  - (3) Public Hearing. At the public hearing, the Town Council shall hear comments and opinion and obtain facts from the public regarding the proposed annexation and proposed zoning district classification. The Town Council is not bound to act in response to information or comments offered at the public hearing.
  - (4) Annexations Not Requiring Special Election; Resolution Ordering Special Election.
    - a. The Town Council may, within 6 months of the public hearing and without holding a special election, vote to accept the annexation by adopting a final resolution annexing the territory under paragraph (b)(10) of this section if all of the following apply:
      1. The proposed annexation is either initiated at the written petition of all of the owners of record of all lands proposed for the annexation or consented to in a notarized writing signed by all the owners and submitted to the Town Council no later than the conclusion of the public hearing held under paragraph (b)(3) of this section.
      2. The Town has not received a written objection from a qualified resident of the territory proposed for annexation.
    - b. If all owners of property considered for annexation do not petition or consent to annexation or if a qualified resident of the territory proposed for annexation submits a written objection, the Town Council may adopt a resolution ordering a special election regarding the proposed annexation. This resolution is also the determination of the Town Council to proceed with the annexation and zoning district classification proposed in the resolution if the election results are in favor of the annexation. A resolution under this paragraph (b)(4)b. of this section must do all of the following:

1. Set the date, time, and place of the special election, which must be between 14 and 60 days after the date of the resolution proposing the special election.
  2. Describe the territory proposed for annexation and the zoning district classifications that will be assigned to the territory if annexed.
- (5) Notice of Special Election. The Town Council must publish notice containing the full text of the resolution adopted under paragraph (b)(4)b. of this section as required under paragraph (b)(1)c. of this section.
- (6) Voting.
- a. The following persons are entitled to 1 vote in a special election under this section:
    1. An individual residing in the territory proposed for annexation if the individual is a United States citizen, 18 years or older, and has continuously been a bona fide resident of the territory for 30 days or more before the special election.
    2. An individual or legal entity owning record title to real property in a parcel proposed for annexation is entitled to 1 vote.
  - b. Paragraph (b)(6)a. of this section must be construed with the principle of "1 person, 1 vote". If a voter is entitled to vote by virtue of both residence and ownership of property or is entitled to vote by ownership of 2 or more parcels of real property, that voter is entitled to only 1 vote.
  - c. An individual or a legal entity entitled to vote under paragraph (b)(6)a. of this section may cast a vote by a duly executed and acknowledged power of attorney and the power of attorney constitutes conclusive evidence of the right of the individual to vote in the special election on behalf of the legal entity or individual granting the power if the power of attorney is filed as follows:
    1. The power of attorney must be surrendered to the Board of Special Elections.
    2. The Board of Special Elections must file the power of attorney in the Office of the Town Manager.
- (7) Conduct of the Special Election. The form of ballot for a special election under this section is as follows:
- \_\_\_\_ For the proposed annexation.
- \_\_\_\_ Against the proposed annexation.
- (8) The Town Board of Elections appointed under Section 7(f) shall act as a Board of Special Elections for the annexation and is the sole and final judge of the legality of the votes offered at the special election. The Board shall keep a true and accurate list of each individual and legal entity who votes. The polling place must be open for the period of time that the Town Council determines is reasonable and appropriate, but the polling place must be open for no less than 1 hour. A person in the polling place at the time the polls close must be permitted to cast a vote.
- (9) Results of Special Election; final resolution. The territory proposed to be annexed is considered approved for annexation if a majority of the votes in the special election are cast in favor of the proposed annexation.
- (10)a. The Town Council must adopt a final resolution annexing the territory that includes all of the following:
1. A statement that includes the annexed territory within the limits of the Town.
  2. The zoning district classification of the territory.
  3. If the resolution proposing annexation under paragraph (b)(1) of this section provided that the Town is not obligated to provide municipal services or to extend municipal facilities or improvements to the annexed territory, a statement containing the same provisions.
- b. Copies of the final resolution under paragraph (b)(10)a. of this section, signed by the Mayor and certified by the secretary, with municipal seal affixed, together with a plot of the area annexed, must be filed immediately for record in the Office of the Recorder of Deeds in and for Sussex County and sent to the Office of State Planning or its successor agency.
- c. The Town Council may publish and post notice of the final resolution annexing the territory as follows:
1. Published no less than 1 time in a newspaper of general circulation in the Town.
  2. Posted in at least 5 public places in the Town and in at least 1 place, viewable to the public, in the territory annexed.
  3. Be in bold print or bordered in black and include a description of the territory annexed and the zoning district classification.
  4. State that a challenge to the annexation must be filed within 60 days from the date of the first publication or posting of the notice.

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- d. The territory annexed is part of the Town from the date of the adoption of the final resolution. Failure to record the resolution, the plot accompanying the resolution, or to publish or post notice of the final annexation resolution does not invalidate the annexation.
- (11) Simultaneous Annexation Proceedings. If multiple parcels otherwise meet the requirements of this section for contiguity, in conducting the special election, the Town Council may do any of the following:
  - a. Combine all contiguous parcels proposed for annexation as 1 "territory".
  - b. Simultaneously conduct a special election for each parcel or a combination of contiguous parcels.
- (12)a. Annexation Agreements. Annexations may be made contingent on an annexation agreement with the Town that addresses each matter relevant to the annexed lands if annexed, such as zoning, subdivision approval, site plan approval, tax relief, public utilities, and public improvements. If the Town Council approves an annexation agreement, the agreement is deemed a material part of the annexation, and the Town and the petitioners are bound to honor the provisions of the agreement unless released by the other party.
  - b. An annexation agreement may not extend beyond 7 years from the date the property is annexed into the Town and is void and unenforceable after the expiration of 7 years. The termination of an annexation agreement does not impact the annexed property's status as being included in the Town's municipal boundaries.
  - c. An annexation agreement may be modified or amended by mutual agreement of the petitioner and the Town Council at any time before the resolution ordering the special election under paragraph (b)(4)b. of this section or, when a special election is not required, the adoption of the final resolution under paragraph (b)(10) of this section. A substantial modification or amendment to an annexation agreement constitutes the withdrawal of the original petition and the filing of a new annexation petition.
- (13) Property Owned by the State of Delaware; Highways, Streets, Roads, and Alleys; Ponds, Canals, Streams, and Other Waters.
  - a. Real property owned by the State of Delaware may be annexed into the Town without the State casting a vote in the special election, provided the State agency having control and supervision of the real property does not provide the Town with written notice of an objection to the annexation within 30 days after notice of the resolution proposing the annexation under paragraph (b)(4)b. of this section.
  - b. Highways, Streets, Roads, and Alleys; Ponds, Canals, Streams, and Other Waters. Contiguity with the Town's existing corporate limits, or with other territory that is contiguous with the Town's existing corporate limits, is not interrupted by the existence of a highway, street, road, alley, pond, canal, stream, or other body of water running parallel with and between the Town and the parcel sought to be annexed. However, this paragraph (b)(13)b. of this section may not be construed to allow a right of way, utility easement, waterway, or like entity to be annexed in "corridor" fashion or to be utilized as a corridor route for annexation to create contiguity.
- (14) Limitations. An action contesting the annexation of a territory under this section may not be brought after the expiration of 60 days from the publication of a notice under paragraph (b)(10)c.
- (15) Re-submission of Proposed Annexation. Nothing in this section prohibits the Town Council from resubmitting a proposal for annexation to the voters of a territory, or a portion thereof, under this section. 82 Del. Laws, c. 236;

### Structure Of Government

#### Section 4.

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. The Town Council shall be composed of five (5) members, each of whose terms shall be for a period of two (2) years, commencing at the Annual Meeting of the Town Council following his/her election and continuing until his/her successor is duly elected and qualified. Each member of the Town Council shall be nominated and elected from the Town at large. One of the members of the Town Council shall be elected Mayor of the Town Council and upon his/her election shall have the title of Mayor of The Town of Greenwood and shall perform all duties prescribed herein to be performed by the Mayor of The Town of Greenwood. Each Town Councilman shall receive as compensation such amount as shall be determined by the Town Council by ordinance or resolution for attendance at any regular meeting, special meeting or workshop meeting. The time of payment shall be determined by the Town Council, but

in no event shall such compensation be paid less frequently than quarterly and at no time shall the compensation to be received by the member of the Town Council who is designated as Mayor during any fiscal year be more than One Thousand Six Hundred Dollars (\$1,600.00) and no other member of the Town Council shall receive during any fiscal year more than One Thousand Dollars (\$1,000.00). 79 Del. Laws, c. 228

### **Qualifications For Members Of Town Council**

#### **Section 5.**

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

- (a) Each member shall be at least twenty-one (21) years of age.
- (b) Each member shall be a citizen of the United States and of the State of Delaware and a bona fide resident of The Town of Greenwood for at least thirty (30) days prior to the deadline to file to run for Council. For purposes hereof, a person is a "bona fide resident" when that person physically resides within the corporate limits of the Town with the actual intent to make that residence that person's fixed and permanent home.
- (c) Each of the qualifications for members of the Town Council shall be continuing qualifications to hold office and the failure of any member of the Town Council to have any of the qualifications required by this Section during his/her term of office shall create a vacancy in the office. The Town Council, by majority vote of its disinterested members, shall be the sole and final judge of the qualifications of its members, and shall interpret and apply the standards set forth in this Charter. 79 Del. Laws, c. 228

### **Method Of Making Nominations For Town Councilman**

#### **Section 6.**

- (a) Notice of solicitation of candidates shall be posted conspicuously within the municipality at least twenty (20) days prior to the filing deadline for the offices up for election and shall include the terms of the offices up for election, the qualifications to run for each office, and the filing procedures and deadline to run for office. All notices shall be posted on any website operated by the Town and shall be sent to the Sussex County Department of Elections within three (3) business days of posting the same. In order to be listed on the ballot at any regular Town election, each candidate shall file a written and signed notice of intention to seek office with the Town Manager, on a form prescribed by the Town, before five o'clock in the afternoon on the second Friday in December. Such form shall contain an affidavit that the candidate meets all the qualifications for office. No later than one (1) business day following the filing deadline, the Town Manager shall submit the names of candidates for each office up for election to the Delaware Department of Elections. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the notice of solicitation of candidates.
- (b) If the Town Manager determines that any candidate may not meet the qualifications for office, he/she shall notify the Mayor who shall call a special meeting of the Town Council to be held no fewer than twenty-one days prior to the date set for the election, at which the Town Council shall decide the matter. The candidate whose qualifications are at issue shall be notified, by registered mail, of the date, time and place of the hearing, at which he/she may appear and testify. If the Town Council determines that the candidate does not meet the qualifications for office, it shall reject his/her notice of intention to seek office and his/her name shall not appear on the ballot. In making the determination, only those members of the Town Council who are not competing for that seat shall be entitled to vote on the question.
- (c) Filing Certificate of Intention and Statement of Organization. All candidates shall file a certificate of intention or statement of organization if either is applicable and required under 15 Del. C. Ch. 75 ("Municipal Elections") as those provisions may from time to time hereafter be amended or with any other existing or future corresponding provisions of law. 79 Del. Laws, c. 228

### **Manner Of Holding Annual Municipal Election**

#### **Section 7.**

- (a) The procedure for holding the Annual Municipal Election shall be as follows

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- (1) The Annual Municipal Election shall be held at a place designated by the Town Council within the corporate limits of The Town of Greenwood on the third Saturday in January of each and every year, with the polls remaining open for no fewer than 6 hours, with the specific time being determined by the Town Council, the first said Annual Municipal Election to be held pursuant to this Charter to be held on the third Saturday in January, A.D. 1992.
  - (2) At the Annual Municipal Election to be held on the third Saturday in January, A.D. 1992, three (3) members of the Town Council shall be elected. Each of the Councilmen who are elected shall serve for a term of two (2) years, or until his/her successor has been duly elected and qualified.
  - (3) At the Annual Municipal Election to be held on the third Saturday in January, A.D. 1993, two (2) members of the Town Council shall be elected. Each of the Councilmen so elected shall serve for a period of two (2) years or until his/her successor has been duly elected and qualified.
  - (4) Thereafter, at each Annual Municipal Election held in even numbered years, there shall be elected three (3) Councilmen who shall serve for a term of two (2) years, or until their successors have been duly elected and qualified and in each Annual Municipal Election held in odd numbered years, there shall be elected two (2) Councilmen who shall serve for a term of two (2) years, or until their successors have been duly elected and qualified.
  - (5) The members of the Town Council of Greenwood who hold office at the time of passage of this Act shall continue to hold office until their respective successors have been duly elected and qualified.
- (b) Notice of Election. Notice of Town elections shall be posted in a conspicuous public place no later than twenty (20) days prior to the election date. The notice of elections shall include the date, time, and place of the election, the names of the candidates for each office, and the qualifications to vote. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the notice of elections. All notices shall be posted on any website operated by the Town and shall be sent to the Sussex County Department of Elections within three (3) business days of posting the same.
- (c) Voting Machines. Elections shall be by voting machine provided by the Sussex County Department of Elections in accordance with 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law.
- (d) Absentee Ballots. The Town Council may (but shall not be required to), by ordinance, provide for a qualified voter (duly registered if required by ordinance) who shall be unable to appear in person, to cast his/her ballot at any municipal election by absentee ballot. Whenever absentee voting is permitted, all notices shall contain information about how to obtain an absentee ballot. All absentee voting authorized by the Town shall be conducted in accordance with 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law.
- (e) Conduct of Elections. The Town Council shall follow the rules governing the conduct of elections and voting procedures found in 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the conduct of elections.
- (f) Board of Elections. Every election shall be held under the supervision of a Board of Elections. The Board of Elections shall consist of three (3) persons (as determined by the Town Council) who shall be qualified voters of the Town and shall not be an elected official or candidate for Town office or an immediate family member of such (mother, father, son, daughter, brother, sister, including half-brothers and sisters, step-family members and in-laws) and who shall be appointed for that purpose by the Town Council at least twenty (20) days before such election. The Board of Elections shall serve for a term of one year commencing the regular Council meeting in December, provided that the term of the Board of Elections shall in no instance expire until a successor Board of Elections has been appointed. Members of the Board of Elections may serve for more than one term. Each board member shall be confirmed and have his/her name and contact information publicly posted in accordance with 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. The Town shall notify the State Election Commissioner and Sussex County Department of Elections of the members appointed to the Board of Elections. The Board of Elections shall oversee the absentee ballots and either appoints an odd number of absentee ballot judges or, at the discretion of the Town Council, acts itself as the absentee ballot election judges. If, at the opening of the polls, there shall not be present all the members of the Board of Elections, the ranking Town officer available at the opening of the polls shall appoint a qualified voter or voters to act as a

member or members of the Board of Elections to fill such vacancies caused by the absence of the previously appointed members of the Board of Elections through the conclusion of the election. Members of the Board of Elections shall be the sole and final judges of the conduct of the election and of the legality of the votes offered. The Board of Elections shall keep a list of all voters voting at said election. The Board of Elections shall have the power to subpoena persons, and officers of the Town, and books, records and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered. The Board of Elections may appoint election officers (including an inspector) when needed to administer elections. In the absence of the appointment of election officers, members of the Board of Elections shall act as election officers, and the Board of Elections shall designate one of the board members as the inspector.

- (g) Voter qualifications; voter registration. Any person shall be qualified to vote who, on the date of the election, is a United States citizen, has attained eighteen (18) years of age, and has continuously been a bona fide resident of the Town (as defined in Section 5) for at least thirty (30) days. Persons appearing to vote shall present proof of identity and address pursuant to 15 Del. C. Ch. 75 ("Municipal Elections"). All questions regarding an individual's qualification to vote raised prior to the day of the election shall go before the Board of Elections and an individual shall be given notice and an opportunity to be heard before the Board of Elections makes a determination regarding that individual's qualifications to vote. Questions regarding an individual's qualifications to vote that are raised at the time of voting shall be resolved by the Board of Elections or its designated election officers. The Town Council may enact such ordinances concerning the registration of qualified voters for municipal elections in the Town as it deems reasonably necessary to provide for the orderly and efficient conduct of municipal elections; provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor shall any such ordinances unduly impair the right to vote in a municipal election.
- (h) Election Results; ties; preservation of ballots and records. Within forty-eight (48) hours of the close of the election, the Board of Elections shall count the votes, and the candidate(s) having the highest number of votes for each office shall be declared, by the Board of Elections, to be duly elected to such office. In the event of a tie vote for any office, the Board of Elections shall break such tie by the toss of a coin. All ballots cast and all records of the election kept by the Board of Elections shall be preserved in the custody of the Board of Elections for a period of thirty (30) days, unless the election is contested or an appeal is filed in a court of appropriate jurisdiction, in which case such ballots and records shall be preserved until further direction of the reviewing body or court having jurisdiction.
- (i) Uncontested Elections. In the event that no person files for office for which an election is to be held within the time set forth in Section 6 of this Charter, the incumbent shall be deemed to be re-elected for a full term and it shall not be necessary to have an election. In the event that only one (1) person files or is nominated for office for which an election is to be held within the time set forth in Section 7 of this Charter, the person who files or who is nominated shall be deemed to be elected for a full term and it shall not be necessary to have an election.
- (j) Compliance with State Regulations. The Town shall act in accordance with the state laws governing municipal voting found in 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law, and the Town shall implement the election provisions found in this Charter in accordance with the same state laws governing municipal voting. 79 Del. Laws, c. 228

### **Organization And Annual Meeting Of Council**

#### **Section 8.**

- (a) Before entering upon the duties of their respective offices, each of the Councilmen Elect shall be sworn by a Notary Public, a Justice of the Peace, the Mayor, or by one of the holdover Council members to perform faithfully and impartially the duties of their respective offices with fidelity. At the next regular Town Council meeting that is scheduled at least seven (7) days after the certification of the Annual Municipal Election, which meeting shall be the same as the annual meeting, the Town Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid.
- (b) At the annual meeting, held on the first regular Town Council meeting that is scheduled as least seven (7) days after the certification of the Annual Municipal Election, the Town Council shall organize and elect a Mayor of the Town Council, who shall hold office for the term of one (1) year or until his/her successor shall be duly elected, and a Vice-Mayor, who shall hold office for the term of one (1) year or until his/her successor shall be duly

elected. The Town Council shall likewise select a Secretary from their own number to serve until the organization meeting after the next Annual Municipal Election. The Town Council may also select an Assistant Secretary to serve, as aforesaid, who may or may not be from among their own number and such other officers and employees as may be determined to be necessary. 79 Del. Laws, c. 228

### **Regular And Special Meetings**

#### **Section 9.**

(a) The Town Council of The Town of Greenwood shall hold at least 1 meeting each month, the time and days of the meeting to be determined by Resolution of the Town Council. If the day selected by the Town Council is a legal holiday, the monthly meeting of the Town Council of The Town of Greenwood must be held on the next regular business day.

(b) The Town Council may cancel a monthly meeting by posting notice of the meeting's cancelation that states the reason for the cancelation in the locations where the meeting's agenda is typically posted.

(c) (1) The Secretary shall call a special meeting upon the written request of the Mayor of the Town of Greenwood, or upon the written request of any 2 members of the Town Council of the Town of Greenwood. A written request for a special meeting must state the day, hour, and place of the special meeting requested, and the subject proposed to be considered at the special meeting.

(2) The Secretary shall give written notice to the Mayor and to each member of the Town Council of the day, hour and place of the special meeting and the subject to be considered at the special meeting by doing either of the following at least 48 hours before the time of the special meeting:

a. Depositing the notice of the special meeting in the United States mail in the main Post Office of The Town of Greenwood.

b. Sending the notice through electronic communication.

(3) The notice required under paragraph (c)(2) of this section may be waived by a written waiver of the notice signed by the Mayor of The Town of Greenwood and by all members of the Town Council before or immediately upon convening the special meeting shall make such written notice unnecessary and shall authorize and make valid the holding of a special meeting. A waiver of notice under this paragraph (c)(3) of this section may authorize and make valid the holding of a special meeting at the time named in the waiver and the transaction of any business considered at the special meeting. 82 Del. Laws, c. 236;

### **Quorum**

#### **Section 10.**

(a) A majority of the members elected to the Town Council constitutes a quorum at a regular or special meeting.

(b) Unless otherwise permitted by this Charter, an ordinance, resolution, motion, order, or other act of the Town Council is valid only if the act receives the affirmative vote of a majority of the sitting members of the Town Council. For purposes of this section, "sitting members" includes all council members serving on the Town Council at the time a vote occurs and does not include a council seat that is vacant.

(c) The Town Council may take any of the following actions without a quorum:

(1) Adjourn a meeting.

(2) Compel the attendance of absent members in the manner and under the penalties permitted by Ordinance. 82 Del. Laws, c. 236;

### **Rules And Minutes Of The Town Council**

#### **Section 11.**

The Town Council shall determine its own rules and order of business. The Town Council shall keep minutes of its proceedings. The minutes must include the yeas and nays taken on each vote taken by the Town Council. 82 Del. Laws, c. 236;

### **Vacancies**



**Section 12.**

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

**Disqualifications****Section 13.**

If the Mayor or any Councilman, during his term of office, shall be found guilty of any felony, he shall forthwith be disqualified to act as Mayor or as a member of Council and his office shall be deemed vacant and shall be filled by the Town Council, as aforesaid.

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

- (a) It shall be unlawful for the Town Council to make or enter into any contract in excess of Five Hundred Dollars (\$500.00) for materials, supplies, services, work or labor, for the benefit and use of The Town of Greenwood with the Mayor or any member of the Town Council or with any partnership in which the Mayor or any member of the Town Council is a general partner, or with any corporation in which the Mayor or any member of the Town Council is a director or controlling stockholder, or with any firm or company in which the Mayor or any member of the Town Council is pecuniarily interested, provided that, if all the remaining elected members of the Town Council shall vote to enter into such contract, then the Town may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.
- (b) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter must be accomplished by competitive bidding and the awarding of contracts to the lowest responsible bidder who submits a responsive bid. Competitive bidding is not required in any of the following circumstances:
  - (1) The aggregate amount involved is not more than \$50,000.00.
  - (2) The purchase or contract is for personal or professional services.
  - (3) The purchase or contract is for any service rendered by a university, college, or other educational institution.
  - (4) The purchase or contract is for a service to be rendered by the State of Delaware or a political subdivision.
  - (5) The purchase or contract is for property or a service for which it is impracticable to obtain competition.
  - (6) [Reserved].
  - (7) The materials to be purchased are to be used to complete a project under the supervision of the Town.
  - (8) The purchase or contract is for property or a service 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.
  - (10) The purchase or contract is for property for which the distance involved or other factors in order to have maintenance performed, as determined by the Town Council, is unreasonable.
- (c) A contract may be awarded to a bidder other than the lowest responsible and responsive bidder if, in the opinion of the Town Council, the interest of the Town is better served by awarding the contract to another bidder.
- (d) Determination of a Responsive Bid and Responsible Bidder. A responsive bid must conform in all material aspects to the requirements and criteria set forth in the contract plans and specifications. The following factors must be considered when determining if a bidder is responsible:
  - (1) The bidder's financial, physical, personnel, or other resources, including subcontracts.
  - (2) The bidder's record of performance and integrity.
  - (3) If the bidder is qualified legally to contract with the Town.
  - (4) If the bidder supplied all the necessary information concerning its responsiveness.

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- (5) Any other specific criteria permitted under Town, State, or federal law for the procurement that the Town establishes in the invitation to bid.
- (e) The Town Council may reject any or all bids on any contract prior to the award of the contract for any reason that is in the best interest of the Town. 82 Del. Laws, c. 236;

**Duties Of The Mayor Of The Town Council****Section 15.**

- (a) (1) The members of the Town Council shall elect a member of the Town Council to be the Mayor of the Town Council.
- (2) The Mayor of the Town Council is also the Mayor of The Town of Greenwood and shall preside at all meetings of the Town Council. The Mayor may vote on all matters brought before the Town Council.
- (3) The Mayor shall perform other duties and have other powers as the Town Council determines that do not conflict with the provisions of this Charter.
- (b) [Reserved].
- (c) (1) The Mayor shall recommend the appointment of committees, subject to Town Council confirmation.
- (2) A committee serves at the direction, and under the authority, of the Town Council.
- (3) A committee may be formed for the purpose of gathering and reporting information to the Town Council that is necessary for the Town Council to make an informed decision and for any other purposes under Delaware law.
- (4) The Mayor may, subject to confirmation by the Town Council, reorganize the composition of a committee at any time, with or without cause.
- (d) It is the duty of the Vice-Mayor of the Town Council, in the absence of or inability of the Mayor to act, to preside at all meetings of the Town Council and to perform other duties and have other powers of the Mayor under the Charter of The Town of Greenwood or an ordinance of the Town Council. 79 Del. Laws, c. 228; 82 Del. Laws, c. 236;

**Secretary****Section 16.**

- (a) The Secretary shall oversee the custody of books, journals, records, papers, and other effects of the Town and shall keep all of the following in a safe and secure place:
  - (1) A full and complete record of all the transactions in The Town of Greenwood and meetings of the Town Council.
  - (2) The seal of the Town of Greenwood.
  - (3) All papers and documents arising out of the proceedings of the Town Council of the Town of Greenwood relative to the affairs of the Town.
- (b) The Secretary shall attest the seal of the Town of Greenwood when authorized by the Town Council. 79 Del. Laws, c. 228
- (c) The Secretary shall perform other duties and have other powers as may be prescribed by ordinance.
- (d) [Reserved]. 82 Del. Laws, c. 236;

**Assistant Secretary****Section 17.**

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

**Section 18.**

[Reserved]

79 Del. Laws, c. 228

**Town Manager****Section 19.**

- (a) The Mayor, with the concurrence of a majority of all the elected members of the Town Council, may appoint a Town Manager to be the Chief Administrative Officer of the Town at compensation as determined by the Town Council.
- (b) The Town Council shall impose the necessary qualifications for Town Manager, but no individual holding the office of Mayor or a member of Town Council may be chosen to be Town Manager during the individual's term of office as Mayor or member of Town Council.
- (c) (1) The Town Manager holds office for either of the following terms:
  - a. An indefinite term.
  - b. A term of employment under an employment contract.
- (2)a. The Town Manager may be removed for just cause by a majority vote of the Town Council of the Town of Greenwood.
  - b. At least 30 days before removal under paragraph (c)(2) of this section becomes effective, the Town Council shall provide the Town Manager with written notice of dismissal that includes the reasons for removal.
  - c. The Town Council may suspend the Town Manager from duty, with or without pay. If the Town Council suspends the Town Manager, the Town Council must pay the Town Manager the unpaid balance of the salary the Town Manager earned prior to the suspension.
  - d. Within 15 days of the notice under paragraph (c)(2)b. of this section, the Town Manager may reply in writing and may request a hearing.
  - e. A hearing requested under paragraph (c)(2)d. of this section must be held no earlier than 20 days before and no later than 30 days after the request unless the Town and the Town Manager otherwise agree.
  - f. After a hearing under paragraph (c)(2)e. of this section, and after full consideration, the Town Council may vote to terminate the Town Manager.
- (3) If the Town Council hires a Town Manager under the terms of a written employment contract, the Town Council may decide to not renew the Town Manager's contract without a finding of just cause and without holding a hearing.
- (d) In case of the absence or disability of the Town Manager, the Town Council may designate a qualified person as Acting Town Manager to perform the duties of the office during the Town Manager's absence or disability. The Town Council shall establish the compensation the Acting Town Manager receives for the performance of the duties of Town Manager.
- (e)(1) The Town Manager is responsible to the Town Council for the proper administration of the affairs of the Town of Greenwood placed in the Town Manager's charge.
- (2)a. The Town Manager has the power to make appointments and to hire employees with the compensation authorized by the Town Council, subject to the rules and regulations that the Town Council adopts.
  - b. Except as provided under Section 19 for the Town Manager and Section 22 for the Police Force, employees are hired for an indefinite term and are at will employees.
  - c. In accordance with the employment policies and procedures that the Town Council adopts, the Town Manager may terminate an employee or may suspend an employee, with or without pay.
- (3) The Town Manager serves as the Tax Collector for the Town, unless the Town Council appoints another individual or entity as Tax Collector.
- (f) It is the intention of this Charter that, in the performance of the Town Manager's duties, and in the exercise of the Town Manager's powers, the Town Manager must not be influenced by a matter of a political or fractional nature. It is the intention of this Charter that the Town Manager is guided solely by matters of expedience and efficiency in the administration of the affairs of the Town placed in the Town Manager's charge. Except for

purposes of inquiry, the Town Council shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.

- (g) The Town Manager shall do all of the following:
  - (1) Supervise the administration of the affairs of the Town under the Town Manager's charge.
  - (2) Make reports to the Town Council as required by the Town Council.
  - (3) Make recommendations to the Town Council concerning the affairs of the Town as may seem desirable to the Town Manager.
  - (4) Keep the Town Council advised of the financial condition and future needs of the Town.
  - (5) Prepare and submit to the Town Council the annual budget estimate.
  - (6) Render to the Town Council at each regular monthly meeting a true, accurate, and detailed account of all moneys collected or received by the Town Manager in the performance of the Town Manager's duties and shall promptly turn the moneys over to the Town Council.
  - (7) The Town Manager shall perform other duties as may be prescribed by this Charter or required by Ordinance or Resolution of the Town Council.
- (h) [Reserved].
- (i) [Reserved].
- (j) The Town Manager has charge and supervision of the streets, gutters, curbs, sidewalks, parks, and other administrative affairs of the Town and all work relating thereto. The Town Manager has charge of and collects taxes, assessments, rentals, license fees, or other charges due the Town. The Town Manager has the charge of the administration of all provisions of this Charter and Ordinances and Resolutions of the Town Council relating to the affairs of the Town when not otherwise provided for by this Charter or by any Ordinance or Resolution of the Town Council. The Town Manager is by virtue of the office the Town Treasurer, unless the Town Council appoints someone else as Town Treasurer.
- (k) The Town Manager shall keep a full and strict account of all moneys received and all disbursements made by the Town Manager. The account is, at all times, open to inspection to the Town Council's inspection.
- (l) The Town Manager shall give to the Town of Greenwood a bond, if the Town Council requires, in the sum and form and with such security satisfactory to the Town Council for the faithful performance of the duties of the office and the restoration to the Town of Greenwood, in case of the Town Manager's death, resignation, or removal from office, all books, papers, vouchers, money, and other property of whatever kind in the Town Manager's possession belonging to the Town. If someone other than the Town Manager is appointed Town Treasurer, the Town may require the Town Treasurer to be bonded as outlined in this paragraph.
- (m) In the event of a vacancy in the office of the Town Manager, the duly-appointed and qualified successor to that office succeeds to all the rights, privileges, and powers reposed in the predecessor in the office in the same manner as though each act, deed, and step taken by the predecessor with respect to a matter or thing pertaining to the office had been taken or performed by the successor to the office.
- (n) Upon the death, resignation, or removal from office of the Town Manager, the Town Council shall appoint a suitable person as Acting Town Manager, who may be an elected or appointed official of the Town of Greenwood, to perform the duties of Town Manager; but the person may not serve for more than 90 days from the date of appointment as Acting Town Manager. 82 Del. Laws, c. 236; 83 Del. Laws, c. 37;

### **Town Solicitor**

#### **Section 20.**

(a) The Mayor, with the advice and consent of a majority of the elected members of the Town Council, shall select and appoint a Town Solicitor for an indefinite term. The Town Council may remove the Town Solicitor with or without due cause stated.

(b) The Town Solicitor must be a member in good standing of the Bar of the State of Delaware.

(c) The Town Solicitor shall give legal advice to the Town Council and other officers of the Town and to perform other legal services as the Town Council may require. 82 Del. Laws, c. 236;

#### **Section 21.**

[Reserved]

79 Del. Laws, c. 228

### **Police Force**

#### **Section 22.**

- (a)(1) The Town Council shall make rules and regulations necessary for the organization, government, and control of the police force.
- (2) The police force shall preserve peace and order and shall compel obedience within the Town limits to the Ordinances of the Town and the laws of the State of Delaware. The police force has other duties as the Town Council shall, from time to time, prescribe. The Town Council shall determine the amount of compensation a member of the police force is paid.
- (b) Each member of the police force has police powers. Each member of the police force is a conservator of the peace throughout the Town of Greenwood and shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. Each member of the police force shall compel the enforcement of all laws enacted by the Town Council. In the case of a pursuit of an offender, the power and authority of the police force extends outside the territorial limitations of The Town of Greenwood.
- (c) (1) The Mayor shall appoint the Chief of Police by and with the advice and consent of a majority of all the elected members of the Town Council and at the compensation that the Town Council determines.
- (2) The Town Council may hire the Chief of Police under the terms of an employment contract.
- (3) Subject to the oversight of the Town Council, the Chief of Police has authority over all police department personnel matters, including the dismissal, demotion, or discipline of police department employees under Chapter 92 of Title 11 and corresponding provisions of law.
- (4) The Town Council may not dismiss, demote, or otherwise remove the Chief of Police from office without a finding of just cause at a hearing held under Chapter 93 of Title 11 and complying with corresponding provisions of law.
- (5) The Town Council may elect to not renew a Chief of Police's employment contract without a finding of just cause or a hearing held under Chapter 93 of Title 11. 79 Del. Laws, c. 228; 82 Del. Laws, c. 236;
- (d) [Repealed] 79 Del. Laws, c. 228
- (e) The police force shall suppress riotous, disorderly, or turbulent assemblages of persons in the streets of the Town or the noisy conduct of a person in the streets of the Town. Upon the view of conduct prohibited under this subsection or of the violation of an ordinance of the Town relating to peace and good order of the Town, the police force has the right and power to arrest without warrant. 82 Del. Laws, c. 236;

### **Annual Audit**

#### **Section 23.**

At the Annual Meeting herein before provided, the Mayor, with the advice and consent of a majority of the elected members of the Town Council, shall appoint an accountant to be the auditor of accounts of The Town of Greenwood. It shall be the duty of the auditor to audit the accounts of the Town and all its officers whose duty involves the collection, custody and payment of monies to the Town. The auditor shall, on or before the date set by the Town Council, annually make and deliver a detailed report of any and all accounts, records, and books by them examined and audited which report shall be under his/her hand and seal. The auditor, in the performance of his/her duties, shall have access to all records and accounts of the offices of the Town Council and he/she is hereby authorized and empowered to employ such clerks as in his/her judgment may be necessary in the proper performance of his/her duties. 79 Del. Laws, c. 228

### **Tax Assessor**

#### **Section 24.**

- (a) The Mayor shall appoint a Tax Assessor with the advice and consent of a majority of all the elected members of the Town Council for an indefinite term.

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

### Assessment Of Taxes

#### Section 25.

- (a) (1) No less than 90 days before the beginning of a new fiscal year, the Tax Assessor shall make a just, true, and impartial annual valuation of all real property and improvements located within The Town of Greenwood. The Tax Assessor shall describe all real estate with sufficient particularity to be identified.
- (2) The Tax Assessor shall assess real estate to each owner of the real estate, if known. If the owner of real estate cannot be found or ascertained, the Tax Assessor shall assess the real estate to "Owner Unknown." A mistake in the name of the owner or a wrong name or an assessment to "Owner Unknown," does not affect the validity of the assessment of a municipal tax or assessment, but the assessment must specify the last record owner of the real estate as appear in the records in the Office of the Recorder of Deeds, in and for Sussex County.
- (b) The Tax Assessor shall make a personal assessment of each citizen of the Town who is 18 years or older, including citizens who own real estate and citizens that do not. The Town Council shall determine the personal assessment and certify the amount of the personal assessment to the Tax Assessor. The personal assessment or per capita tax is in addition to the assessment levied on real estate owned or assessed.
- (c) No fewer than 90 days prior to the beginning of a new fiscal year, the Tax Assessor shall deliver a list containing the names of all persons assessed and the amount of assessment against each to the Town Council. The Tax Assessor shall deliver at that time as many copies of the list as the Town Council directs.
- (d) (1) The Town Manager shall annually provide the Town Council with a list of each charge, cost, or other assessment owed to the Town before the posting of the annual assessment list under subsection (g) of this section. The list of charges must include all of the following:
  - a. Sidewalk assessments.
  - b. Waterline assessments.
  - c. Water service charges.
  - d. Weed and grass cutting bills.
  - e. Sanitary sewer service charges.
  - f. Trash collection bills.
  - g. Past due electric charges.
  - h. Costs for demolition or repair of a building or structure in accordance with governing town ordinances.
  - i. Costs the Town incurred to remediate a code violation and bring a property into compliance with the Town Code.
  - j. Interest, not to exceed the monthly rate of 1.5%, on delinquent amounts owed to the Town.
  - k. The amount of an unpaid penalty imposed by a court for violation of a municipal ordinance.
  - l. Business license and rental license fees.
- (2) When adopted by resolution of the Mayor and Council, the amounts on the list under paragraph (d)(1) of this section are incorporated into the annual assessment list posted under subsection (g) of this section and are treated and considered the same as taxes and collected in the same manner as taxes.
- (e) The annual assessment must distinguish the real and personal assessment of each person and must also be arranged so that the land, the improvements thereon, and the per capita assessment appear in separate columns or spaces. In making this assessment, the Tax Assessor shall make its valuation accordingly.
- (f) The Town Council shall assess the real property of the Tax Assessor.

- (g)(1) Immediately upon receiving the annual assessment list from the Tax Assessor and adopting a resolution incorporating the additions to tax bills into the annual assessment list, the Town Council shall post a full and complete copy of the annual assessment list containing the amount assessed to each taxable in a public place in Town. The annual assessment list must remain posted for a period of no less than 10 days for the information or an examination by all concerned.
- (2) No less than 10 days before the next regular meeting of the Town Council, a notice advertising that the Town Council will hold a court of appeals at the next regular meeting of the Town Council must be posted with the annual assessment list posted under paragraph (g)(1) of this section and also in 5 or more public places in the Town of Greenwood. The notice must include all of the following:
  - a. The date of the next regular meeting of the Town Council.
  - b. That the Town Council will hear appeals from the annual assessment.
- (3) The decision of the Town Council sitting as the Board of Appeals is final and conclusive and the Town Council shall revise and complete the assessment at this sitting.
- (4) A member of the Town Council may not sit upon the member's own appeal but the other members of the Town Council shall hear and determine the member's appeal.
- (h) The Tax Assessor shall be present on the day fixed for hearing appeals and shall furnish to the Town Council the information and answer the questions as the Town council may require in respect to any assessment for which an appeal has been taken. The Town Council has the authority to enforce the attendance of the Tax Assessor by appropriate process. 82 Del. Laws, c. 236;

#### **Levy Of Annual Taxes**

#### **Section 26.**

- (a) At the first regular meeting in the last month of the fiscal year, after having revised and completed the assessment, the Town Council shall determine, in its best judgment and knowledge, the total amount that the Town must raise to meet the fixed and anticipated expenses and obligations of the Town, including reasonable and appropriate reserves, for the current fiscal year under the Town Budget for the year plus a reasonable amount to cover anticipated expenses and emergencies.
- (b) After complying with subsection (a) of this section, the Town Council shall determine, in its sole discretion, from which sources of the Town's authorized revenues the amount the Town determines will be raised and, within the limits prescribed by this Charter with respect to the source, the amount to be raised from each source. At the first regular meeting in the last month of the fiscal year, the Town Council shall adopt a resolution approving the final assessment list, including additions to tax bills adopted by the Town Council under Section 25(d) of this Charter, and establishing the rates to assess and levy any of the following:
  - (1) The rate of tax on real estate including improvements thereon per \$100 of the assessed value.
  - (2) The amount of personal or per capita tax upon each citizen of the Town who is 18 years or older.
  - (3) The rate of tax upon each pole, construction, erection, wire, or appliance more particularly mentioned, or intended to be mentioned in Section 29 of this Charter.
  - (4) The several license fees to be charged for carrying on or conducting of the several businesses, professions, or occupations more particularly mentioned or intended to be mentioned in Section 29 of this Charter.
  - (5) The several rates to be charged for furnishing water service, sewer service, electric service, gas service, and front footage assessment.
  - (6) The fee or rate to be charged in respect to another authorized source of revenue sufficient in the Town Council's judgment and estimation to realize the amount to be raised from each source determined by the Town Council to be used as aforesaid; provided, however, that sources in paragraphs (b)(4) through (6) of this section may be determined, fixed, assessed, levied, or altered or changed upon other than a fiscal year basis and at any regular or special meeting of the Town Council as the Town Council, in its discretion, shall determine.
- (c) Immediately after the last regular meeting before the end of the fiscal year of each year, the Town Council shall make, or cause to be made, a full, true and correct Annual Tax List showing the amount of tax levied against each taxable thereon from sources in paragraphs (b)(1) through (3) of this section, along with additions to tax bills incorporated into the annual assessment list by the Town Council under Section 25 of this Charter. This list is the Annual Tax List of The Town of Greenwood. In addition to the information contained in the assessment

list, it must also contain information as to the rate of tax upon real estate for each \$100 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 Tax Collector shall immediately proceed to collect the same as hereinafter 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 Greenwood under the existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in The Town of Greenwood created hereby. 82 Del. Laws, c. 236;

### **Collection Of Annual Taxes**

#### **Section 27.**

- (a) The Tax Collector shall proceed to collect those amounts identified on the Annual Tax List as soon as possible following the receipt of the Annual Tax List. In addition to powers otherwise delegated to the Town Tax Collector under this Charter, the Town Tax Collector has the same powers, remedies, and authority, including the monition procedure, as conferred upon the Receiver of Taxes for Sussex County under Chapter 87 of Title 9 or in accordance with any future corresponding provision of law. In exercising the powers, remedies, and authority under this subsection, the Town Tax Collector and the Superior Court shall follow the same procedures as applicable to the Receiver of Taxes under Chapter 87 of Title 9. 76 Del. Laws, c. 154;
- (b) A tax laid or imposed by the Town of Greenwood in the Annual Tax List, including any additions to tax bills adopted by the Town Council under Section 25 of this Charter, is a lien upon all the real estate of the taxable for a period of 10 years against or upon whom the tax is laid or imposed, of which the taxable was seized or possessed after the tax was levied and imposed that is situated within the Town of Greenwood. But, if the real estate remains the property of the person or entity that was the owner at the time the property was assessed, the lien continues until the tax is collected. A lien under this subsection has preference and priority to all other liens on the real estate, created or suffered by the taxable, although the lien is of a time and date prior to the time of the attaching of the lien for taxes.
- (c) All taxes, when and as collected by the Tax Collector, must be paid to The Town of Greenwood, and all taxes are due and payable at and from the time of the delivery of the Annual Tax List to the Town Manager.
- (d) All taxes are payable at the Office of the Tax Collector during the regular business hours of that Office.
- (e) (1) An amount on the Annual Tax List that has not been paid within 60 days of the mailing of the tax bill is considered delinquent and accrues interest for each month or fraction thereof that the amount remains unpaid at a monthly interest rate of 1.5%. The Town Council may make just allowances for delinquencies in the collection of taxes.  
(2) In addition to the interest under paragraph (e)(1) of this section, the Town Council may also impose a collection charge reasonably calculated to recover the costs of collection, including court costs, sale costs, reasonable and necessary out-of-pocket expenses, filing fees, and reasonable attorney fees that the Town incurs in the collection proceedings. Interest and collection charges may be collected in the same manner as the amounts identified on the Annual Tax List, including through the use of the monition procedure.
- (f) At the annual meeting of the Town Council of each year, the Tax Collector shall account to the Town Council for all taxes and sewer rentals collected during the year. The Tax Collector is liable on the Tax Collector's bond for failure to account for any uncollected taxes or sewer rentals unless the Tax Collector 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. 82 Del. Laws, c. 236; 83 Del. Laws, c. 37;

### **Town Budget**

#### **Section 28.**

- (a) The fiscal year for The Town of Greenwood shall be as determined by Resolution of the Town Council.
- (b) Annually each year and not later than sixty (60) days prior to the beginning of the next fiscal year, the Treasurer of The Town of Greenwood shall prepare a rough draft of the Town Budget. From this rough draft, the Town Council shall, not later than the regular meeting following the presentation of the rough draft prepared of the



Town Budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year, adopt the budget.

- (c) The budget shall contain the following information:
  - (1) An estimate showing the expenses for conducting the affairs of the Town for the ensuing fiscal year;
  - (2) The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof;
  - (3) The amount of the debt of the Town, together with the schedule of maturities of bond issues;
  - (4) An itemized statement of all other estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;
  - (5) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds"; (6) An estimate of the amount of money to be received from taxes, water rents, sewer service charges, front footage assessments, license fees and all other anticipated income of the Town from any source or sources whatsoever.
- (d) The Town Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

### **Enumeration Of Powers**

#### **Section 29.**

- (a) Not by way of limitation upon the power vested in the Town Council of the Town of Greenwood to exercise all powers delegated by this Charter to the municipal corporation or to the Town Council except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Town Council is vested by the Charter with the following powers, to be exercised by the Town Council in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs, as follows:
  - (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, sewer, drain, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb or gutter or portion thereof in the Town; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; to enter into contracts or agreement for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of the street, lane, alley, roadway or other public thoroughfare within the Town.
  - (6) [Reserved].
  - (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 or 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, bay window, cellar, gate, area, descent, sign, post or any other erection or projection in, over, upon or under any street, highway, alley, lane, water course, park, lake, sidewalk, crosswalk, sewer, drain, aqueduct or pipeline of the Town.
  - (11) To define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare.

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**CHARTER OF GREENWOOD**

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- (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 Greenwood may be used, the manner of its use, the amounts to be paid by the users, the means whereby the amounts are collected and the fines or penalties, or both, for delinquent accounts or for willful or negligent injury, or damage to or interference with the water system or the equipment of the Town; to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though the water had been initially reduced to usefulness by the municipality itself.
- (13) To provide, construct, extend, maintain, manage, and control a sewer system or a sewage treatment and disposal plant and facility, 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, the means whereby such amounts are collected and the fines or penalties or both, for any delinquent accounts or for any willful or negligent injury or damage to, or interference with, the system, plan, or facility; or 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 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 service 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 plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for lighting the streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, wharfs, docks, public buildings or other public places in the Town and to this end, to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessarily proper to light the Town, and to furnish proper connections for electric current and gas to the properties of the inhabitants of the Town who may desire the same; to regulate and prescribe for what private or public purposes the current or gas furnished by the Town may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any willful or negligent injury or damage to or interference with the electric or gas system or systems of the Town; to furnish or refuse to furnish electric current or gas from the Town's system or systems to places and properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness by the Town itself.
- (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 and rivulet within the Town, to regulate, maintain, clean and keep the same open, cleaned and unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town.
- (16) To provide, construct, extend, maintain, manage and control embankments, or fills for the preservation of any high land within the limits of the Town and contiguous thereto to the end that the same may be preserved, properly protected and that the general public might enjoy the use thereof.
- (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 consideration of the Town Council shall deem in the best interest of the municipality, to use the present and future streets, highway, lanes, alleys, water courses, parks, lakes, sidewalks, crosswalks, and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, railroad (excepting railroads or railways engaged in Interstate Commerce), bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof, and for the purpose of vending any article of merchandise or service upon or from any vehicle upon any present and future street, highway, lane, alley, etc.; provided that no exclusive

franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever.

- (18) To regulate and control the exercise of any license or franchise mentioned in Section 29 of this Charter, or intended so 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, fill up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter.
- (21) To provide for or regulate the numbering of houses and lots on the streets and the naming of 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 Code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material; and, generally, to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22, Del. C. of 1974, and all amendments heretofore or hereafter adopted.
- (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 violations of law or ordinance, or for detention of persons accused of violations of law or ordinances, for a reasonable time in cases of necessity prior to hearing and trial; and to provide for the restraint, support and employment of paupers, beggars and vagrants; provided that any correctional institution located in Sussex County may be used for any such purpose.
- (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 devices for discharging missiles which may cause bodily injury or injury or harm to property; and to regulate or prevent the use of fireworks, bombs and detonating works of all kinds.
- (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 not to exceed in the total during any fiscal year three percent (3%) of the total taxes levied on real estate unto any volunteer fire company or companies incorporated under the laws 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, 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 Five Hundred Thousand Dollars (\$500,000.00); 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 herein before or hereafter incurred.
- (31) To levy and collect a personal or per capita tax upon all persons resident within the corporate limits of The Town of Greenwood 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 therein attached; expressly excepting all telephone, telegraph, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in Interstate Commerce for any and all purposes and to this end may at any time direct the same to be included in or added to the Town assessment. In case the owner or lessee or such constructions or erections, wires or other appliances shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies provided for the collection thereof set forth in Section 26 of this Charter, the Town Council shall have the authority to cause the same to be removed.
- (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 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 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 in 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 herein before mentioned unless authorized in a greater amount by the General Assembly of the State of Delaware.
- (37) To acquire, and/or to vacate the use of lands, tenements, personal property, easements, rights of way, or any interest in property, either within or without the limits of the Town, by way of condemnation and eminent domain for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred upon or delegated to The Town of Greenwood 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 thereat, 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 of 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 by ordinance duly adopted pursuant to this Charter a Pension Plan or a Health and Welfare Plan, or both, for the employees of the Town under such terms and conditions as the Town Council, in its discretion, may deem most appropriate, provided, however, that any annual appropriation which is made by the Town Council under any such Pension Plan or any Health and Welfare Plan, or both, shall not exceed a maximum of fifteen percent (15%) of the total annual payroll of the Town; and provided further, that the method of funding may, if deemed desirable by the Town Council, be accomplished through an insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of the elected members of the Town Council.
- (42) To borrow money in anticipation of revenues on the full faith and credit of The Town of Greenwood a sum or sums not exceeding One Hundred Thousand Dollars (\$100,000.00) in any one year when, in the opinion

of a majority of the Town Council of The Town of Greenwood, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of The Town of Greenwood, duly authorized by Resolution adopted by the Town Council of The Town of Greenwood, and signed by the Mayor of The Town of Greenwood 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 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 at any one time shall not exceed One Hundred Thousand Dollars (\$100,000.00); and provided further, that any sum of money so borrowed, as aforesaid, in any fiscal year, shall be paid from the general fund of the Town and shall be completely repaid at any time, but must be completely paid at the end of ten (10) fiscal years following the first fiscal year when said sum or sums were borrowed, with interest thereon; and provided that such ad valorem taxes shall be levied 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 the State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants; provided, however, that any ordinance relating to the public health of the Town and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same shall apply not only within the corporate limits of the Town but as well to all areas and persons outside the Town within one (1) mile from said limits. 82 Del. Laws, c. 236;

### **Streets**

#### **Section 30.**

- (a) Power to Lay Out, Locate, Open, Widen, Alter, Close, Vacate, or Abandon. The Town Council has the power and authority to lay out, locate, and open a new street or alley, or to widen or alter all or parts of an existing street or alley, and to close, vacate, or abandon all or part of an existing or proposed street or alley, whenever the Town Council deems it in the best interest of the Town.
- (b) Initiation of Proceedings. The procedures under this Charter to lay out, locate, open, widen, alter, close, vacate, or abandon a street or alley in the Town of Greenwood may be commenced by resolution of the Town Council.
- (c) Resolution Proposing Change: Notice; Hearing. A resolution under this section must contain a description of the proposed change and must fix a time, date, and place when the Town Council shall sit to hear comments and objections concerning the proposal. At least 14 days before the date set for the public hearing, the Town Council shall print the resolution in a newspaper having a general circulation in the Town of Greenwood and post the resolution in 5 public places in the Town.
- (d) Notice to Affected Property Owners. The Town Council shall send notice of the resolution, by certified mail, return receipt requested, to each owner of record of the real estate through, over, or abutting where the street or alley may run. Notice to 1 co-owner is effective as to all. If the address of the owner is unknown, a copy must be delivered to a person occupying the premises or, if none, posted thereon. Notice to an affected property owner under this subsection must be provided at least 14 days before the date set for the public hearing.
- (e) Hearing and Resolution. At the time and place in the resolution, the Town Council shall hear the residents or taxables of the Town or owners of the property affected thereby, who attend the hearing. After hearing all comments, the Town Council may, at the meeting, or at a subsequent date, adopt a resolution to proceed with, or abandon, the change proposed in the resolution. Within 5 days of adopting the resolution under this subsection, the Town Council shall provide a copy of the resolution to all affected property owners in the same manner as the notice provided under subsection (d) of this section. Failure to provide the notice required under this subsection does not invalidate the resolution adopted by the Town Council.
- (f) Payment of Compensation; Acquisition of Title.
- (1) Taken Land. When the Town Council determines to proceed with the opening of a new street or alley, or the widening of an existing street or alley, the Town may acquire title to the lands necessary by negotiation and purchase or by condemnation under the procedure in Chapter 61 of Title 10.

- (2) Closed, Vacated, or Abandoned Street or Alley. When the Town Council determines to proceed with the closing, vacating, or abandoning of an existing street or alley, or a part thereof, no compensation may be paid to a property owner unless the closing, vacating, or abandoning deprives a property of all reasonable vehicular access directly between a public street or public alley and an existing garage, carport, or improved off-street parking area located on the property so that the property owner effectively loses the use of the garage, carport, or parking area for off-street parking or temporary storage of motor vehicles. A property owner who claims the deprivation of the use of a garage, carport, or parking area under this paragraph (f)(2) of this section must notify the Town in writing of the claim within 60 days of the resolution adopted under subsection (e) of this section. Upon receipt of such notice, the Town Council shall proceed to pay compensation for the damages in the same manner as under paragraph (f)(1) of this section.
- (3) Disposal of Abandoned and Vacated Street Lands. When the Town owns the land included in a part of a street or alley vacated or abandoned under this section, the Town Council may sell the land at a public or private sale for the consideration the Town Council deems proper after first offering the land to the owners of property abutting on each side of the land. The Town Council has the right and power to convey to the purchaser of the land a good and sufficient title of the land for whatever estate the Town may have therein.
- (4) "Street" Defined. For the purposes of this section, the term "street" means the entire right-of-way, whether or not improved, including a sidewalk, curb, lane, alley, roadway, street, or other highway owned by, titled in the name of, or under the jurisdiction and control of the Town. "Street" does not include a road, street, highway, or other public way under the jurisdiction and control of the Department of Transportation.
- (g) The Town Council has the full power and authority to re-grade, re-surface, redress, and otherwise repair and rebuild an existing street, lane, alley, and other public thoroughfare in the Town, and to construct, build, pave, and in any manner improve a new or existing street, lane, alley, and other public thoroughfare now open or to be opened for public use in the Town. The Town Council may employ a contractor, engineer, inspector, or others necessary to do the work under this subsection. The Town Council has full power and authority to enter into a contract or agreements with the Department of Transportation for the construction or permanent or temporary maintenance, repair, or up-keep of a street, lane, alley, highway, or other public thoroughfare within the Town limits. 82 Del. Laws, c. 236;

### Curbing And Paving

#### Section 31.

- (a)(1) The Town Council has the power to cause to do all of the following in the Town:
- Pave or repave a sidewalk.
  - Repair or relay an existing curb or gutter.
  - Install a new sidewalk, curb, or gutter.
  - Pave or repave a street.
- (2) Curbing and paving under paragraph (a)(1) of this section may be done to any part or portion of a sidewalk, curb, gutter, or street, and the Town Council shall determine the specifications of the curbing and paving, including the material used and the width or size of the sidewalk, curb, gutter, or street.
- (b) Before the exercise of said power in any particular instance, the Town Council shall adopt an ordinance or resolution stating in effect that on a named day and at a named hour and place, the Town Council will meet to consider the question of paving or repaving the sidewalks, laying, repairing or relaying curbs or gutters, or both, with any specified material or materials or to construct new curbs or gutters or to pave new sidewalks or to pave new streets, or any of them.
- (c) The ordinance and resolution shall specify the streets and the names and addresses of the owners of the property in front of or adjacent to whose property the work shall be done.
- (d) The said ordinance or resolution shall be published at least one (1) week prior to the meeting of the Town Council in at least one (1) issue of a newspaper having a general circulation in The Town of Greenwood.
- (e) The Town Council shall hold a meeting in said Town pursuant to the provisions of said ordinance or resolution and at such meeting shall hear owners of property and other residents of the Town appearing on the question referred to in the said ordinance or resolution.
- (f) Following said hearing, the Town Council, either at said meeting or at a subsequent meeting, shall decide whether to proceed with the improvements referred to in said ordinance or resolution, or any part thereof, and if it shall decide to proceed, it shall determine whether the whole or some specified proportion of the cost of the

improvements, repairs or replacements shall be assessed to the owner or owners of the property in front of or adjacent to whose property the said improvements, repairs or replacements are being constructed or installed. If the Town Council concludes that the whole or a specified proportion of said cost shall be borne by said owners, the said owners shall be compelled to pay the whole or the specified proportion of the cost of said work, the amount to be paid to be determined by the linear footage of the parcel in front of which the sidewalk is to be paved or repaved or the gutter to be laid, repaired or replaced or the curb to be repaired, constructed or installed or the street to be paved or repaved or any or all of said improvements, as the case may be.

- (g) When the said paving or repaving, curbing or recurbing, guttering or reguttering, or any or all of them shall have been completed and the cost thereof ascertained, the Town Council shall ascertain the amount that the owner of each parcel shall pay and shall give written notice thereof to such owner, or one of the co-owners if there be more than one (1) owner, by mailing the same to his last known address by first class mail, with postage prepaid. If any owner shall fail to pay the specified amount within thirty (30) days after the mailing of said notice, the amount, together with costs and interest may be collected by the Town Council in the same manner and on the same terms and conditions as are provided in this Charter for the collection of delinquent taxes.
- (h) Any notice sent to one (1) co-owner shall be notice to all owners and in a case where no owners reside within the corporate limits of The Town of Greenwood, notice served as set forth herein or posted upon the premises shall be sufficient.
- (i) Provisions contained herein shall apply to any ordinance or resolution enacted or adopted by the Town Council in respect to any pavement, sidewalk, gutter, curb, street heretofore made or done which the said Town Council may deem to need repair or replacement. 82 Del. Laws, c. 236; 83 Del. Laws, c. 37;

### **Power To Borrow Money And Issue Bonds**

#### **Section 32.**

- (a) Except as permitted under subsection (c) of this section, 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 Greenwood to provide funds for only any of the following:
  - (1) The erection, extension, enlargement, purchase, or repair of a plant, machinery, appliance, or equipment for the supply or the manufacture and distribution of electricity or gas.
  - (2) Furnishing of water to the public.
  - (3) The construction, repair, and improvements of a highway, street, or lane, or the paving, curbing, or erection of a gutter or curb along the same.
  - (4) Purchasing of real estate for a municipal purpose.
  - (5) The construction or repair of sewage disposal equipment.
  - (6) Erecting, enlarging, repairing, or replacing any municipal building including a town hall, a police department building, a municipal warehouse, or any other building that is situated or will be situated, on property owned by the Town.
  - (7) Condemning or purchasing land, an easement, or a right-of-way which may be required for action taken under paragraph (a)(6) of this section.
  - (8) To defray the cost or the share of the Town of the cost of a permanent municipal improvement.
  - (9) Erecting, enlarging, repairing, or replacing public recreational facilities.
- (b) Except as permitted under subsection (c) of this section, to authorize the borrowing of money under subsection (a) of this section, the Town Council must do all of the following:
  - (1) Propose, by resolution, to the residents and property owners of the Town that the Town Council proposes to borrow a certain sum of money for a purpose under subsection (a) of this section. The resolution must state all of the following:
    - a. The date, time, and location for a public hearing to receive public comment on the borrowing.
    - b. The amount of money to be borrowed.
    - d. The purpose for which the money will be borrowed.
    - e.) The manner of securing the money.
    - f. All other pertinent facts relating to the loan deemed pertinent by the Town Council and in possession of the Town Council at the time of the adoption of the resolution.

- (2) Notice of the time and place of the hearing on the resolution authorizing the loan must be printed in a newspaper having a general circulation in the Town or distributed in circular form at least 1 week before the public hearing.
  - (3) Following the public hearing, the Town Council must pass a second resolution ordering a special election to be held not less than 30 days nor more than 60 days after the public hearing under paragraph (b)(1)a. of this section. The special election is for the purpose of voting for or against the proposed loan. The passing of the second resolution calling a special election is, ipso facto, the determination of the Town Council to proceed with the matter in issue.
  - (4) The notice of the time and place of the special election must be printed in 2 issues of a newspaper having a general circulation in The Town of Greenwood within 30 days before the special election or distributed in circular form at least 15 days before the special election, or both, at the discretion of the Town Council.
  - (5) a. The following persons are entitled to 1 vote in a special election under this section:
    1. An individual who is qualified to vote under Section 7(g).
    2. An individual or legal entity owning record title to real property in the Town.b. Paragraph (b)(5) of this section must be construed with the principle of "1 person, 1 vote". If a voter is entitled to vote by virtue of both residence and ownership of property or is entitled to vote by ownership of 2 or more parcels of real property, that voter is entitled to only 1 vote.
    - c. An individual or a legal entity entitled to vote under paragraph (b)(5) of this section may cast a vote by a duly executed and acknowledged power of attorney and the power of attorney constitutes conclusive evidence of the right of the individual to vote in the special election on behalf of the legal entity or individual granting the power if the power of attorney is filed as follows:
      1. The power of attorney must be surrendered to the Board of Special Elections.
      2. The Board of Special Elections must file the power of attorney in the Office of the Town Manager.
  - (6) The Town Council shall cause to be prepared, printed, and have available for distribution a sufficient number of ballots not less than 5 days prior to the special election. The special election may, at the discretion of the Town Council, be conducted by the use of voting machines or by paper ballot. The Mayor of The Town of Greenwood, by and with the advice and consent of the majority of the Town Council shall appoint 3 persons to act as a Board of Special Election. The individuals appointed to the Board of Special Elections may be the same individuals appointed under 7(f). A polling place must be open for no less than 2 hours on the date set for the special election.
  - (7) The Board of Special Election shall count the votes for and against the proposed loan and shall announce the result thereof. The Board of Special Election shall make a certificate under their hands of the number of votes cast for and against the proposed loan and the number of void votes and shall deliver the same to the Town Council, which said certificate shall be retained by the Town Council with the other papers of the Town Council.
  - (8) The form of the bond or certificate of indebtedness, the interest rate, the time or times of payment of interest, the classes of the bond, the time or times of maturity, and the provisions as to registration shall be determined by the Town Council after the said Special Election.
  - (9) The bonds may be sold at either public or private sale. If it is determined to sell the bonds at public sale, they shall be offered for sale to the best and most responsible bidder therefor after advertisement in a manner to be described by the Town Council.
  - (10) The Town Council shall provide in its budget and in the fixing of the rate of tax for the payment of interest on and principal of the said bonds at the maturity thereof.
  - (11) The faith and credit of The Town of Greenwood shall be deemed to be pledged for the due payment of interest thereon issued pursuant to the provisions hereof when the same had been properly executed and delivered for value.
- (b) The bonded indebtedness shall not at any time exceed in the aggregate the total sum of twenty-five percent (25%) of the assessed value of real property situate within the limits of The Town of Greenwood shown by the last assessment preceding the creation of the said indebtedness, unless authorized in a greater amount by the General Assembly of the State of Delaware.
- (c) (1) The Town Council may borrow money on the full faith and credit of the Town without approval of the voters and without regard to the provisions of subsections (a) and (b) of this this section if the sum borrowed does not exceed, in the aggregate, \$100,000, for any municipal or public purpose when, in the opinion of at least 4 members of the Town Council elected, the needs of the Town require it.



- (2) The terms of any new borrowing under paragraph (c)(1) of this section made after [the effective date of this act] must require repayment in full within 15 years of the date of the borrowing.
- (3) A sum borrowed under paragraph (c)(1) of this section must be secured by a promissory note or other evidence of indebtedness of the Town Council duly authorized by resolution of the Town Council, signed by the Mayor, and attested by the Secretary of the Town Council with the town seal affixed.
- (4) A sum of money borrowed on the full faith and credit of the Town shall be paid from the general funds of the Town.
- (d) (1) After the borrowing of money has been approved under paragraph (b) or (c) of this section, the Town Council may publish a notice announcing all of the following information:
  - a. The Town Council has determined to borrow a certain sum of money and to issue bonds or certificates of indebtedness for this sum of money.
  - b. The borrowing has been approved and whether the approval was through a special election of the Town or a vote of Town Council.
  - c. The amount of money to be borrowed, which may be stated as a "not-to-exceed" amount.
  - d. The purpose for which it is to be borrowed.
  - e. The security for the borrowing.
  - f. That a person desiring to challenge the authorization of this bond or certificate of indebtedness must bring an action within 60 days from the date of publication of this notice or forever be barred from doing so.
- (2) The Town Council must publish the notice under paragraph (d)(1) of this section as follows:
  - a. Published no less than 1 time in a newspaper of general circulation in the Town.
  - b. Posted in at least 5 public places in the Town and in at least 1 place, viewable to the public, in the territory proposed to be annexed.
  - c. Be in bold print or bordered in black
- (3) If the publication of the notice under paragraph (d)(2) of this section does not appear on the same date, the date of the first publication or posting controls.
- (e) An action contesting a proceeding conducted, or action taken, by the Town Council regarding the authorization of a bond, promissory note, or certificate of indebtedness issued under this Section may not be brought more than 60 days after the publication of the notice under subsection (d) of this section. 82 Del. Laws, c. 236;

### **Actions Or Suits**

#### **Section 33.**

No action, suit or proceeding shall be brought or maintained against The Town of Greenwood for damages either compensatory or punitive on account of any physical injury or injuries, death or injury to property by reason of the negligence, simple, gross, or willful or wanton conduct, of the said Town of Greenwood, 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 Greenwood 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 Greenwood by certified mail with return receipt requested and postage prepaid.

### **Compendium**

#### **Section 34.**

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 Greenwood. The Town Council shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, current rules and regulations, or upon the enactment of amendments to the same, the Town Council shall enroll the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish the Mayor of The Town of Greenwood 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 35.**

- (a) All powers conferred upon or vested in the Town Council of The Town of Greenwood 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 Greenwood and/or the Town Council of The Town of Greenwood precisely as if each of said powers was expressly set forth in this Charter.
- (b) All ordinances adopted by the Town Council of Greenwood 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 Greenwood under the provisions of this Charter.
- (c) All of the acts and doings of the Town Council of Greenwood or of any official of the Town Council of Greenwood which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town Council of Greenwood or under any provision of any prior Charter of The Town of Greenwood, 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 Greenwood shall be due The Town of Greenwood and all debts due from The Mayor and Council of The Town of Greenwood shall remain unimpaired until paid by The Town of Greenwood.
- (e) All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the Town Council of The Town of Greenwood.
- (f) The bonds given by or on account of any official of The Town of Greenwood 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.

**Section 36.**

- (a) Subject to the limitations and conditions hereinafter set forth, the Town shall indemnify, from the general funds of the Town's Treasury, any person who is a party to, or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Town of Greenwood itself) by reason of the fact that he or she is or was a Councilmember, Mayor or other duly elected or appointed Town Official of the Town of Greenwood, or arising out of actions taken by each or any of them in connection with the performance of their official duties, against all expenses (including reasonable attorney's fees) judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Town of Greenwood, and with respect to any criminal action or proceeding had reasonable cause to believe that his or her conduct was unlawful; provided however, that in the event of a monetary settlement, the Town Council shall first approve the amount and terms of the settlement before the right to indemnification shall vest.
- (b) Indemnification as provided by this Charter shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the Councilmember, Mayor and/or Town Officer is proper in the circumstances because he or she met the applicable standards of conduct set forth above. Such determination shall be made:
  - (1) By a majority vote of a quorum of the Town Council consisting of Council members who were not parties to such action, suit or proceeding, or

- (2) If such a quorum is not obtainable, by independent legal counsel in a written opinion.
- (c) The right to indemnification hereunder shall be secondary to the coverages provided by any applicable policy of insurance and such policy(s) shall be construed and enforced as if no right of indemnification existed under this Charter. Nothing in this Section shall eliminate or reduce the scope or amount of coverage that would otherwise be in effect under any applicable policy of insurance but for this Section, and the right to indemnification shall be limited only to those amounts not covered by applicable policies of insurance.
- (d) Anything herein to the contrary notwithstanding, the right to indemnification shall be limited, per incident, to a sum not exceeding the Town's total tax revenues for the two (2) fiscal years immediately preceding the incident giving rise to the claim.

76 Del. Laws, c. 15

Approved July 5, 1991.

68 Del. Laws, c. 109; 69 Del. Laws, c. 20; 76 Del. Laws, c. 15; 76 Del. Laws, c. 154; 79 Del. Laws, c. 228; 82 Del. Laws, c. 236; 83 Del. Laws, c. 37;