

Houston

Incorporation

Section 1.

The inhabitants of the Town of Houston 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 corporation name of "The Town of Houston".

Territorial Limits

Section 2.

The present boundaries and limits of the Town of Houston are hereby established and declared to be, as follows:

Description of boundary limits of the Town of Houston located in Milford Hundred, Kent County, State of Delaware. Surveyed by Mann-Talley, Inc., November 1977.

BEGINNING at a point in the centerline of Broad Street, at 60 feet wide, also known as Delaware Road 37, the said point being in line of the northeasterly boundary of the Town of Houston, the said point of beginning is further described by the following course and distance from the centerline intersection of the said Broad Street and Conrail Railroad as referenced in Mann-Talley, Inc. survey plot of the Town of Houston:

North 5 degrees 11 minutes 00 seconds East 1,320.00 feet to the said point of beginning. Thence from said point of beginning South 85 degrees 05 minutes 00 seconds East 30.00 feet to a concrete monument set in the southeasterly right of way of the said Broad Street as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence South 85 degrees 05 minutes 00 seconds East 2,322.50 feet to a corner for the said Town of Houston; thence South 5 degrees 11 minutes 00 seconds West 437.69 feet to a set concrete monument; thence passing over School Street, also known as Kent County Road 445, South 5 degrees 11 minutes 00 seconds West 50.00 feet to a set concrete monument as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence South 05 degrees 11 minutes 00 seconds West 802.31 feet to a concrete monument set in the northeasterly right of way of the said Conrail Railroad; thence South 5 degrees 11 minutes 00 seconds West 60.00 feet to a concrete monument set in the southwesterly right of way of the said Conrail Railroad; thence South 5 degrees 11 minutes 00 seconds West 643.88 feet to a set concrete monument; thence passing over Front Street, also known as Kent County Road 446 South 5 degrees 11 minutes 00 seconds West 27.00 feet to a set concrete monument; thence South 5 degrees 11 minutes 00 seconds West 619.12 feet to another corner for the said Town of Houston; thence North 85 degrees 05 minutes 00 seconds West 4075.50 feet to another corner for the said Town of Houston; thence North 5 degrees 11 minutes 00 seconds East 609.12 feet to a set concrete monument; thence passing over the said Front Street North 5 degrees 11 minutes 00 seconds East 50.00 feet to a set concrete monument as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence North 5 degrees 11 minutes 00 seconds East 640.88 feet to a concrete monument set 20.00 feet in line from the said centerline of Conrail Railroad; thence North 5 degrees 11 minutes 00 seconds East 50.00 feet to a concrete monument set in the said northeasterly right of way of Conrail Railroad as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence North 5 degrees 11 minutes 00 seconds East 810.16 feet to an existing concrete monument; thence passing over the said School Street North 5 degrees 11 minutes 00 seconds East 40.20 feet to an existing concrete monument as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence North 5 degrees 11 minutes 00 East 439.64 feet to another corner for the said Town of Houston; thence South 85 degrees 05 minutes 00 seconds East 1,693.00 feet to an existing concrete monument 1.05 feet below grade as referenced in the said Mann-Talley, Inc., survey plot of the Town of Houston; thence South 85 degrees 05 minutes 00 seconds East 30.00 feet to a point in the said centerline of Broad Street, the said point and place of BEGINNING. CONTAINING within said metes and bounds 257 acres of land be the same more or less.

Annexation Of Territory**Section 3.**

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

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

- annexation to the property owners and residents of both the Town and the territory proposed to be annexed shall be passed by the affirmative vote of two thirds (2/3) of the elected members of the Town Council. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the Resolution failed to receive the required affirmative vote. The second Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution adopted by the Town Council setting forth the above information shall be printed in a newspaper having a general circulation in the Town of Houston at least one (1) week prior to the date set for the public hearing, or, at the discretion of the Town Council, the said Resolution shall be posted in four (4) public places both in the Town of Houston and in the territory proposed to be annexed.
- (d) Following the public hearing, but in no event later than thirty (30) days thereafter, a Resolution shall then be passed by a majority of the Town Council ordering a Special Election to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. Passage of this Resolution shall ipso facto be considered the determination of the Town Council to proceed with the matter of the proposed annexation.
- (e) The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the Town of Houston, or, in the discretion of the Town Council, the said notice may be posted in public places, both in the Town of Houston and in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the said Special Election.
- (f) At the Special Election, every property owner, whether an individual, partnership or a corporation both in the Town of Houston and in the territory proposed to be annexed, shall have one (1) vote. Every citizen of either the Town of Houston or of the territory proposed to be annexed over the age of eighteen (18) years who is not a property owner shall have one (1) vote. In the case of property owned by husband and wife jointly, the husband and wife shall each have one-half (1/2) vote. In the event that a person owns property both in the Town of Houston and in the territory proposed to be annexed and resides in either place, he may vote only where he resides. In the event that a person owns property both in the Town of Houston and in the territory proposed to be annexed but does not reside in either place, he may vote only in the Town of Houston and not in the territory proposed to be annexed. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of the Town of Houston in the case of property owners and citizens of the Town and the books and records of the Board of Assessment of Kent County, in the case of property owners and residents of the territory proposed to be annexed, shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.
- (g) In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote at the said Special Election, a duly authenticated Power of Attorney shall be filed with the Town Council of the Town of Houston. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election.
- (h) The Town Council of the Town of Houston shall cause voting machines to be used in the Special Election, the form of ballot to be printed as follows:
- For the proposed annexation
 Against the proposed annexation
- (i) The Mayor of the Town of Houston shall appoint three (3) persons to act as a Board of Special Election, with the concurrence of majority of the council, at least one (1) of whom shall own property in the Town of Houston and at least one (1) of whom shall own property in the property proposed to be annexed. One (1) of the said persons so appointed shall be

designated the Presiding Officer. Voting shall be conducted in a public place as designated by the Resolution calling the Special Election. The Board of Special Election shall have available, clearly marked, two (2) voting machines. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations who are authorized to vote as residents or property owners of the Town of Houston shall be accomplished on the other such voting machine. The polling place shall be open from one o'clock in the afternoon, prevailing time, until six o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

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

all the elected members of the Town Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of the Town of Houston shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of the Town of Houston from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.

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, consisting of a Mayor and four Council members. The term of the Mayor shall be for a period of two years and the term of each Council member shall be for the period of two years, each term commencing at the annual meeting of the Town Council following his election and continuing until his successor is duly elected and qualified.

Qualifications For Town Councilman And Mayor

Section 5.

The qualifications for Town Councilman and the Mayor shall be as follows:

- (a) A bona fide resident of the United States and of the State of Delaware and a resident of the Town of Houston for at least one (1) year next preceding the Annual Municipal Election; and
- (b) At least eighteen (18) years of age;
- (c) Be non-delinquent in their town taxes;
- (d) Each of the qualifications for Town Councilman or Mayor shall be continuing qualifications to hold office, and failure of any of the Councilmen or the Mayor to have any of the qualifications required by this Section during the terms of his office will create a vacancy in the office.

Method Of Making Nominations For Town Councilman

Section 6.

- (a) On the last Saturday in February, two (2) members of the Council shall sit at a place designated by the Town Council within the Corporate limits of the Town of Houston between the hours of 6 p.m. and 8 p.m., to accept the names of candidates for election to the office of Mayor and for election to the office of Town Council Member. Notice stating the date, time and place of sitting shall be posted in public places in the Town of Houston at least ten (10) days prior to date of sitting.
- (b) The Town Council shall cause to be printed ballots. Said ballot shall contain the names of all persons nominated. Such ballots shall be delivered to the persons appointed or selected to hold the election at the opening of the polls. Voting machines shall be used; however, in the event no contest exists, they shall not be required. Voters may also prepare for themselves ballots, either printed or written.

Manner Of Holding Annual Municipal Election**Section 7.**

The procedure for holding the annual municipal election shall be as follows:

- (a) The annual municipal election shall be held at a place designated by the Town Council within the corporate limits of The Town of Houston on the last Saturday in March of each and every year from three o'clock in the afternoon, prevailing time, until seven o'clock in the evening, prevailing time. The first said annual municipal election to be held pursuant to this Charter to be held on the last Saturday in March A.D. 1979.
- (b) The present Mayor and Members of the Town Council shall, by this Act, be appointed to serve and shall continue to serve from and after the passage hereof until a Mayor and Councilmen are duly elected; and that at the annual election held on the last Saturday in March, A.D. 1979, after the passage of this Act as provided for in Section 6 of this Act, a Mayor and four (4) Councilmen shall be elected, the Mayor and two Councilmen shall be elected for the term of one year, or until their successors shall be duly qualified, and two Councilmen for the term of two years, or until their successors shall be duly qualified; and thereafter at every subsequent annual election the successors to the Mayor and Councilmen whose terms shall have expired shall be chosen to serve for the term of two years, or until their successors shall be duly qualified; and if any vacancy or vacancies shall occur among them by death, resignation, refusal to serve, or otherwise, the remaining Councilmen shall have the power to fill such vacancy or vacancies until the ensuing annual election, at which time such vacancy or vacancies shall be filled by the election of a Mayor or Councilmen to fill the unexpired term of the Mayor or Councilmen in whose stead they shall be elected.
- (c) The annual municipal election shall be conducted by a Board of Election consisting of an Inspector and two (2) Judges appointed by the Mayor of the Town of Houston, with the concurrence of a majority of the members of the Town Council, not later than the last regular meeting of the Town Council prior to the date of the annual municipal election. The Board of Election shall determine who is and who is not lawfully entitled to vote thereat, take reasonable steps to see that the law pertaining to the annual municipal election receives compliance, and shall take reasonable steps for the purpose of counting the votes and certifying the result to the Town Council. If any of the officers so chosen and designated to conduct the annual municipal election shall not be present at the polling place at the time designated for the holding of the annual municipal election, it shall be lawful for the qualified voters present at the polling place at the time of holding such annual municipal election to elect from among their own number a person to fill each vacancy and such Board of Election cause by the absence of any member of the Board of Election. The Board of Election shall keep a list of all persons who voted at such annual municipal election.
- (d) At such annual municipal election every person, male or female, who shall have attained the age of eighteen (18) years on or before the date of the annual municipal election and who shall be a bona fide resident of the Town of Houston shall have one (1) vote. All voters must be residents of the Town of Houston. The Town Council, may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite for voting at the election.
- (e) All votes offered at the annual municipal election shall be offered in person, except in cases where a person is under doctors care, on military duty, or out of town for business reasons. All reasons must be in writing and notarized and submitted with a copy of the ballot, prepared by voter, and also notarized, in a sealed envelope, and delivered to the Election Inspector no later than 3:00 P.M. on the day of the Election.
- (f) Upon the close of the election, the votes shall be read and counted publicly. The persons having the highest number of votes for each office shall be declared duly elected and continue in office for the term stated or until his successors are duly elected and qualified. In case of a tie, there shall be a run-off election between the candidates so tied.
- (g) The Election Board shall enter in a Book, to be provided for that purpose, minutes of the election, containing the names of the persons chosen, shall subscribe the same, and shall

give to the persons elected certificates of the Election, which Book, consisting such minutes, shall be preserved by the Council, and shall be evidence in any Court of Law and Equity. All ballots cast, all tabulations of votes from voting machines and the records of the Elections shall be preserved in the custody of the Election Board for a period of ten (10) days.

Organization And Annual Meeting Of Council

Section 8.

- (a) Before entering upon the duties of their respective offices, the Mayor-Elect and the Councilmen-Elect shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity. At seven-thirty o'clock in the evening, prevailing time, at the first regular meeting following the annual municipal election, the Town Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid.
- (b) At the annual meeting, held on the first regular meeting following the annual municipal election, the Town Council shall select a Vice-Mayor from among their own number to serve until the first regular meeting after the next annual municipal election and shall also select a Secretary, who may or may not be from among their own number, to serve until the first 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.

Regular And Special Meetings

Section 9.

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

Quorum

Section 10.

A majority of the members elected to the Town Council shall constitute a quorum at any regular or special meeting; but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by Ordinance.

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

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

Vacancies**Section 12.**

If any vacancy shall occur in the office of Mayor or Councilman by death, resignation, loss of residence in the Town of Houston, 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 crime or misdemeanor and sentenced to imprisonment for any term whatever, or violates (a), (b) or (c) of Section 5, or shall for any reason cease to be a resident of the Town, he shall forthwith be disqualified to act as Mayor or Councilman and his office shall be deemed vacant and shall be filled by the Town Council, as aforesaid. A resignation may or may not be requested by the Town Council.

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 Houston with any member of the Town Council or the Mayor or with any partnership in which any member of the Town Council or the Mayor, or with any corporation in which any member of the Town Council or the Mayor is a Director or controlling stockholder or any firm or company which any member of the Town Council or the Mayor is pecuniarily interested, provided that if all the elected members of the Town Council shall vote to enter into such contract, then the Town may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.
- (b) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by competitive bidding and the awarding of contracts to the lowest responsible bidder who submits a responsive bid; PROVIDED, HOWEVER, that competitive bidding shall not be required in any of the following circumstances:
 - (1) The aggregate amount involved is not more than Five Hundred Dollars (\$500.00);
 - (2) The purchase or contract is for personal or professional services;
 - (3) The purchase or contract is for any service rendered by a University, college or other educational institution;
 - (4) The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision;
 - (5) The purchase or contract is for property or services for which it is impracticable to obtain competition;
 - (6) The public exigency, as determined by the Town Council, will not permit the delay incident to advertising;

- (7) The purchase or contract is for property or services for which the Town Council determines the prices received after competitive bidding are unreasonable as to all or part of the requirement or not independently reached in open competition;
- (8) A public emergency as determined by the Town Council exists.

Duties Of The Mayor And President Of Council

Section 15.

- (a) The Mayor shall preside at all meetings thereat, and shall vote on all matters brought before the Town Council for a vote. He shall appoint all committees, receive complaints of nuisances, and other complaints of citizens concerning violations of law and ordinances, He shall present a report of complaints and nuisances and violations of law and ordinances to the Town Council at the first regular meeting after receiving such complaints. He may require the Alderman or the Assistant Alderman, as hereinafter provided for in this Act, to proceed upon such infractions or violations of law and ordinances immediately in the event that he deems such action to be required. The Mayor shall perform such other duties and have such other powers as the Town Council shall determine not in conflict with the provisions of this Charter.
- (b) The Mayor, within thirty (30) days following his election, may appoint, by and with the advice and consent of a majority of the elected members of the Town Council, two (2) suitable persons who shall be qualified voters of the Town of Houston to act as Alderman and Assistant Alderman. Both the Alderman and the Assistant Alderman shall hold office until each successor shall be duly appointed and chosen.
- (c) The Mayor may, for any reasonable cause, by and with the consent and upon the address of a majority of all the members of the Town Council, remove from office any person appointed by him or any of his predecessors. The person against whom the Council may be about to proceed shall receive five (5) days' written notice thereof, accompanied by a statement of the cause alleged for the removal and shall be accorded a full and fair hearing, if such a request is received by the Mayor by certified mail with return receipt requested within ten (10) days following the date that notice of removal is received by such person.
- (d) The Mayor may appoint such other committees as he deems necessary for the proper administration of the Town of Houston or the Council may, by resolution, authorize the Mayor to appoint certain committees which are deemed necessary to carry out the provisions of this Act.
- (e) It shall be the duty of the Vice-Mayor, in the absence of the Mayor to preside at all meetings of the Town Council in the event of absence of the Mayor and perform such other duties and to have such other powers of the Mayor as are prescribed by the Charter of the Town of Houston or by any Ordinance of the Town Council.

Secretary

Section 16.

- (a) The Secretary shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. They shall keep a full and complete record of all the transactions in the Town of Houston. The Secretary shall keep a record of the transactions and proceedings of the same, together with such other duties as may be prescribed by this Charter or by Ordinance or rule of the Town Council of the Town of Houston. They shall file and keep in a safe place, as may be determined by the Town Council, the seal of the Town of Houston and all papers and documents arising out of the proceedings of the Town Council of the Town of Houston relative to the affairs of the Town. They shall deliver the same to his successor in office. They shall attest the seal of the Town of Houston when authorized by the Town Council and shall perform such other duties and have such other powers as may be prescribed by Ordinance.

- (b) All books, records and journals of the Town of Houston in the custody of the Secretary may, in the presence of the Mayor, Secretary, Assistant Secretary or any member of the Town Council of the Town of Houston, be inspected by any registered voter of the Town desiring legitimate information at any time, or times, as may be convenient and will not interfere with the regular routine of the business of the Town.
- (c) All books, records, papers and documents in the custody of the Secretary shall be open for inspection by members of the Town Council of the Town of Houston.
- (d) Compensation, if any, of the Secretary for his duties, shall be determined by the Town Council.

Assistant Secretary

Section 17.

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

Alderman And Assistant Alderman

Section 18.

- (a) The Mayor may appoint some suitable person to act as Alderman and may appoint some suitable person to act as Assistant Alderman. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, shall be of good character and reputation and shall be a resident of the Town of Houston and shall not be a member of the Town Council of the Town of Houston. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be appointed for an indefinite term and any such appointment shall be confirmed by a majority of all members of the Town Council of the Town of Houston. Either the Alderman or the Assistant Alderman may be removed from office at any time, with or without cause, by the affirmative vote of two-thirds (2/3) of all the elected members of the Town Council of the Town of Houston.
- (b) Before entering upon the duties of his office, the person appointed by the Mayor to serve as Alderman and the person appointed by the Mayor to serve as Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of his office honestly, faithfully and diligently and to uphold and enforce the Charter of the Town of Houston and to carry into effect all orders of the Town Council of the Town of Houston made pursuant to any law of this State. the Assistant Alderman shall perform the functions of the Alderman if the Alderman is unavailable and at such other times as may be designated by the Mayor. During such periods the Assistant Alderman shall have all the powers and duties of Alderman.
- (c) The Town Council shall procure suitable records for the use of the Alderman and the Assistant Alderman. Such records shall be known as the "Alderman's Docket". The Alderman and the Assistant Alderman shall each record all official acts and proceedings in the Alderman's Docket.
- (d) The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of the Town of Houston so far as to arrest and hold for bail or fine and imprison offenders for any offense, penalty or forfeiture prescribed by the Charter of the Town of Houston and any Ordinance enacted thereunder; of all neglects, omissions or default of any officer, agent or employee of the Town; PROVIDED, HOWEVER, that neither the Alderman nor the Assistant Alderman shall impose any fine in excess of Five Hundred Dollars (\$500.00) nor imprison any offender for more than sixty (60) days, or both, except as otherwise provided in the Charter of the Town of Houston. The Alderman and the Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by Ordinance or Resolution of the Town Council of the Town of Houston; PROVIDED,

- HOWEVER, that no costs shall be imposed which are in excess of that which may be imposed by a Justice of the Peace for like service.
- (e) The Alderman and the Assistant Alderman shall prepare and submit a monthly report to the Town Council reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the Town all such fines and penalties.
 - (f) The Alderman and the Assistant Alderman shall receive such salary as may be fixed from time to time by Resolution of the Town Council.
 - (g) If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he shall deliver to the Council, within two days after his removal from office, all the books and papers belonging to his office, and to pay over to the Council all moneys in his hands within five (5) days after receiving the notice of his removal from office. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or the Assistant Alderman, the Council shall require the auditor of the Town, appointed as hereinafter provided, to make an audit of the books and papers of the official so removed from the office. Upon the neglect or failure to deliver all the books and papers to the Council within the time specified by this Charter, or to pay over all of the moneys to the Council within the time specified, the Alderman or Assistant Alderman, so removed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each day he fails to deliver the books and papers to the Council or to pay over all moneys to the Council.

Treasurer

Section 19.

The Treasurer shall be a citizen and resident of the said town above the age of twenty-one years of age at the time of his appointment.

The Town Treasurer, before entering upon the duties of his office, shall be sworn or affirmed to faithfully and honestly perform the duties of his office, which oath or affirmation shall be administered by the President, or acting President of Council.

The Town Treasurer, before entering upon the duties of his office shall also give bond to the Town of Houston, with sufficient surety to be approved by Council, in the penal sum of the amount in the municipal aid account or in the amount of Five Thousand Dollars (\$5,000.00) whichever is greater, conditioned for the faithful discharge of the duties of his office and for the payment of his successor in office of all sums of money belonging to said Town, which remain in his hands upon the settlement of his accounts, to which bond condition shall be annexed a warrant of attorney for the confession of judgement for said penalty.

The Treasurer shall pay all orders drawn on him by order of said Council out of any moneys in his hands belonging to said Town. He shall settle his accounts with said Council annually by the end of the fiscal year, and oftener and at such other times as Council may require.

Collector Of Taxes

Section 20.

The Collector of Taxes shall be a citizen and resident of the said Town above the age of twenty-one years of age at the time of his appointment.

It shall be the duty of the Town Collector to collect all Town Taxes, water and sewer rents, charges for electric current, and all other kinds of Town revenue, and to pay the same to the Town Treasurer as herein otherwise provided.

The Town Collector, before entering upon the duties of his offices, shall give bond to the Town of Houston with sufficient surety to be approved by Council, in the sum of the amount of the municipal aid account, conditioned for the faithful performance of the duties of his office, and the payment to the Treasurer of said Town of all moneys collected by him belonging to said Town from taxes, sewer and water rents, electric current accounts, and all other Town revenue, and for the settlement of his accounts with the Treasurer of the Town at the end of each fiscal year, and oftener and at such other times as Council may

require, to which bond and condition there shall be annexed the usual full warrant of attorney for confession of judgement for said penalty.

Town Solicitor

Section 21.

The Mayor of the Town of Houston 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 who shall be removable at the pleasure of the Town Council of the Town of Houston either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware, with offices in Kent County. It shall be his duty to give legal advice to the Town Council and other officers of the Town and to perform other legal services as may be required of him by the Town Council.

Board Of Health

Section 22.

- (a) The Board of Health shall consist of four (4) members, one of whom shall be a practicing physician. The Board shall be appointed by the Mayor of the Town of Houston with the advice and consent of a majority of the elected members of the Town Council at the annual meeting hereinbefore provided and shall serve for one (1) year or until their successors are duly appointed and qualified. The Board of Health shall have cognizance of and interest in the life and health of the people of the Town. The Board shall report to the Town Council in writing whatever is deemed by the Board to be injurious to the health of the people of the Town and shall make recommendations to the Town Council concerning whatever may contribute to the health and sanitation of the citizens of the Town of Houston. The Board shall organize by the election of a Chairman and Secretary within ten (10) days after notice of their appointment and shall keep a record of their proceedings and acts. The Secretary shall be the executive officer of the Board.
- (b) The Secretary of the Board may be allowed a reasonable annual compensation for his services, which shall be determined by the Town Council and no other compensation shall be paid to the Secretary for his services as such. The Secretary may or may not be a member of the Board of Health appointed by the Mayor, but he shall be a resident of the Town of Houston.
- (c) The Board of Health shall have the power to recommend the adoption of ordinances relating to the health of the population of the Town or to prevent the introduction or spread of infectious or contagious diseases or nuisances affecting the same and such ordinances, when adopted by the Town Council, shall extend to an area outside the Town limits for a distance of one (1) mile.
- (d) If the Council fails to appoint a Board of Health, the five (5) Council members shall duly serve.

Police Force

Section 23.

- (a) The Town Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the police force. The police force shall preserve peace and order and shall compel obedience within the Town limits to the Ordinances of the Town and the laws of the State of Delaware. The police force shall have such other duties as the Town Council shall, from time to time, prescribe. The Chief of Police and the members of the police force shall be subject to the direction of the Police Commission of the Town Council.
- (b) Each member of the police force shall have police powers similar to those of constables within the Town limits and within one (1) mile outside said limits and shall be conservators of the

- peace throughout the Town of Houston. They shall suppress all acts of violence and enforce all laws relating to the safety of persons and property and shall compel the enforcement of all laws enacted by the Town Council of the Town of Houston. In the case of a pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of the Town of Houston to all parts of the State of Delaware.
- (c) Every person sentenced to imprisonment by the Alderman or the Assistant Alderman or a Justice of the Peace, as the case may be, shall be delivered by a member of the police force to the correctional institution located in Kent County to be there imprisoned for the term of his sentence.
 - (d) In the case of an arrest at any time when the Alderman or the Assistant Alderman of the Town of Houston shall not be available or if no such Alderman or Assistant Alderman has been appointed, the person arrested may be taken before the nearest Justice of the Peace with offices in Kent County who shall hear and determine the charge, and who, in such case, is vested with all the authority and powers granted by this Charter under the Alderman or the Assistant Alderman. In the case of an arrest at a time when the Alderman or the Assistant Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Kent County for imprisonment until such reasonable time thereafter as shall enable the Alderman or Assistant Alderman or the Justice of the Peace to hear and determine the charge against such person.
 - (e) It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in the streets of the Town or the noisy conduct of any person in the same. Upon the view of the above or upon view of the violation of any Ordinance of the Town relating to peace and good order thereof, the police force shall have the right and power to arrest without warrant.

Annual Audit

Section 24.

At the annual meeting hereinbefore provided, the Mayor, with the advice and consent of a majority of the elected members of the Town Council, shall appoint Auditor of accounts for the Town of Houston. It shall be the duty of the auditor to audit the accounts of the Town and all its officers whose duty involves the collection, custody and payment of moneys to the Town. The auditor shall audit the books of the Alderman and the Assistant Alderman of the Town of Houston, the records of all fines, penalties, costs imposed or collected by him pursuant to any judgement, order or decree made. The auditor shall annually make and deliver a detailed report of any and all accounts, records and books by them examined and audited which report, shall be available to any resident and/or taxpayer of the Town of Houston. The auditor, in the performance of his duties, shall have access to all records and accounts of the offices of the Town Council, and he is hereby authorized and empowered to employ such clerks as in his judgement may be necessary in the proper performance of his duties.

Board Of Assessment

Section 25.

- (a) The Board of Assessment shall be appointed by the Mayor of the Town of Houston, with the advice and consent of a majority of the elected members of the Town Council, for an indefinite term. The Board of Assessment shall consist of three (3) members, all of whom shall be over the age of twenty-one (21) years, bona fide residents of the Town of Houston and freeholders of the Town.
- (b) They shall be sworn or affirmed by the Mayor of the Town of Houston or by a Notary Public to perform their duties with fidelity and without favor. It shall be their duty to make a fair and impartial assessment of property and persons subject to taxation situate within the corporate limits of the Town and to perform such other duties and reference thereto as shall be prescribed from time to time by the Town Council of the Town of Houston. Compensation to be received by them for the performance of their duties in the hiring of employees to assist

them in the performance of their duties shall be fixed by and subject to the approval of the Town Council of the Town of Houston.

- (c) In making such assessment, the rules and exemptions now applicable by law to the making of the assessment for Kent County of persons and property shall be applicable insofar as consistent with the provisions of this Charter.

Assessment Of Taxes

Section 26.

The Board of Assessment shall, within ninety (90) days prior to the beginning of the next fiscal year, make a just, true and impartial annual valuation or assessment of all real estate and improvements located thereon located within the Town of Houston. All real estate shall be described with sufficient particularity to be identified. Real estate shall be assessed to the owner or owners if he or they be known. If the owner or owners of real estate cannot be found or ascertained, it may be assessed to "Owner Unknown". A mistake in the name of the owner or owners or a wrong name or an assessment to "owner unknown", shall not affect the validity of the assessment of any municipal tax or assessment based thereon; PROVIDED, HOWEVER, the assessment shall specify the last record owner or owners thereof as the same shall appear from the records in the Office of the Recorder of Deeds in and for Kent County. The Board of Assessment shall also make a personal assessment of all male and female citizens of the Town above the age of eighteen (18) years, whether an owner of real estate or not, said personal assessment shall be determined by the Town Council and certified to the Board of Assessment. Said personal assessment or per capita tax shall be in addition to the assessment levied on real estate owned or assessed by any person or persons whomsoever.

- (a) The Board of Assessment after making such annual assessment, shall, at least ninety (90) days prior to the end of the fiscal year, deliver to the Town Council of the Town of Houston a list containing the names of all persons assessed and the amount of assessment against each. They shall also deliver at such time as many copies of said list as the Town Council shall direct.
- (b) The annual assessment shall distinguish the real and personal assessment of each person and shall also be arranged so that the land, the improvements thereon, and the per capita assessment shall appear in separate columns or spaces. In making this assessment, the Board shall make its valuation accordingly.
- (c) The real property of the several members of the Board of Assessment shall be assessed by the Town Council of the Town of Houston.
- (d) Immediately upon receiving the annual assessment list from the Board of Assessment, the Town Council of the Town of Houston shall cause a full and complete copy of the same, containing the amount assessed to each taxable to be hung in a public place in the Town of Houston, and there it shall remain for a period of at least ten (10) days for the information of and examination by all concerned. Appended thereto and also in public places in said Town shall be posted notices advertising to all concerned that, upon a certain day mentioned therein and not earlier than ten (10) days after the date of posting of the true and correct copy of the annual assessment list and notices that, at the next regular meeting of the Town Council, the Town Council will hold a court of appeals at which time and place they shall hear appeals from the said annual assessment. The decision of the Town Council sitting as the Board of Appeals shall be final and conclusive, and said Town Council shall revise and complete said assessment at this sitting. No member of the Town Council shall sit upon his own appeal, but the same shall be heard and determined by the other councilmen.
- (e) All the members of the Board of Assessment shall be present on the day fixed for hearing appeals and shall furnish to the Town Council such information and answer such questions as the Town Council may require in respect to any assessment for which an appeal has been taken. The Town Council shall have the authority to enforce the attendance of the Board of Assessment by appropriate process.
- (f) In lieu of a Board of Assessment, the Council may, by majority vote, accept the tax listing of the Kent County Board of Assessment, Receiver of Taxes.

- (g) It will be the responsibility of the Mayor to present at the regular May Meeting of the Council, the above current tax assessment from the records of the Kent County Board of Assessment and Receiver of Taxes.

Levy Of Annual Taxes

Section 27.

- (a) At the last regular meeting in the fiscal year, after having revised and completed the assessment, the Town Council shall determine, in its best judgement and knowledge, the total amount necessary to be raised by the Town to meet the fixed and anticipated expenses and obligations of the Town, including reasonable and appropriate reserves for the then current fiscal year as set forth in the Town budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies.
- (b) The Town Council should then proceed to determine, in its sole discretion, from which sources of the authorized revenues of the Town the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect to any such source, the amount to be raised from each such source. They shall then proceed to determine, assess, fix, and/or levy as follows:
- (1) The rate of tax on real estate including improvements thereon per One Hundred Dollars (\$100.00) of the assessed value; and/or
 - (2) The amount of personal or per capita tax upon each citizen of the Town over the age of eighteen (18) years; and/or
 - (3) The rate of tax upon all poles, construction, erections, wires and appliances more particularly mentioned, or intended so to be in Section 30 of this Charter as amended; and/or
 - (4) The several rates to be charged for furnishing water service, sewer service, electric service, gas service, front footage assessment; and/or
 - (5) The fees or rates to be charged in respect to any other authorized source of revenue sufficient in their judgement and estimation to realize the amount to be raised from each such source determined by them to be used as aforesaid; PROVIDED, HOWEVER, that sources (4) and (5) aforementioned may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and that any regular or special meeting of the Town Council as the Town Council, in its own proper discretion, shall determine.
- (c) Immediately after the last regular meeting prior to the end of the fiscal year of each and every year, the Town Council shall make, or cause to be made, a full, true and correct Annual Tax List showing the amount of tax levied against each taxable thereon from sources (1), (2) and (3) abovementioned. This list shall be known as the Annual Tax List of the Town of Houston. In addition to the information contained in the assessment list, it shall also contain information as to the rate of tax upon real estate for each One Hundred Dollars (\$100.00) of assessed valuation thereof.
- (d) The Town Council shall cause to be delivered to the Town Tax Collector a duplicate of said Annual Tax List and the Town Tax Collector shall 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 Houston under existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in the Town of Houston created hereby.
- (f) In the event that any tax rate need be changed from the prior years, the Council shall hold two (2) public hearings, (excluding regular meetings) concerning the changing of any tax rates. Said public hearings must be posted ten (10) days prior, in four (4) public places and in one (1) newspaper having general circulation in the Town. A majority vote shall be taken by the

council at two (2) regular Council meetings prior to the tax rate changes. (62 Del. Laws, c. 366, 7/10/80)

Collection Of Annual Taxes

Section 28.

- (a) The Tax Collector, as soon as the Town Council shall have placed in his hands a duplicate Annual Tax List, shall proceed on or before July 1, of the year to collect the taxes on said duplicate list.
- (b) All taxes so laid or imposed by the Town of Houston in such Annual Tax List shall be and constitute a lien upon all the real estate of the taxable for a period of ten (10) years against or upon whom such taxes are laid or imposed, of which such taxable was seized or possessed at any time after such taxes shall have been levied and imposed that is situate within the Town of Houston. Such lien shall have preference and priority to all other liens on such real estate, as aforesaid, created or suffered by the said taxable, although such lien or liens be of a time and date prior to the time of the attaching of such lien for taxes.
- (c) All taxes, when and as collected by the Tax Collector, shall be paid to the Town of Houston, and all taxes shall be due and payable at and from the time of the delivery of the Annual Tax List to the Tax Collector.
- (d) In the collection of said taxes, there shall be an abatement of three percent (3%) on any taxes paid on or after the first day of July and prior to the last day of August. On all taxes paid after October 1st there shall be an additional sum of one and one half percent (1 1/2%) interest per month as a penalty for each month or fraction thereof such taxes shall remain unpaid and said penalty shall be collected in the same manner as the original amount of the tax. The town Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid after the 1st of October shall be considered delinquent. In effecting a collection of any delinquent tax the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any interest or penalty imposed thereon.
- (e) The Town Council may, by ordinance, establish a tax exemption for any town resident who has reached the age of sixty-five (65) years and who has applied to the county for a tax exemption which will exempt said resident from town property tax for assessments up to \$4,000.00.
- (f) The Town Tax Collector, when any tax has become delinquent, may, in the name of the Town of Houston, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Kent County, or in the Superior Court of the State of Delaware, in and for Kent County, for the recovery of the unpaid tax in an action of debt, and upon judgement obtained, may sue out writs of execution as in case of other judgements recovered before a Justice of the Peace or in the Court of Common Pleas, or in the Superior Court as the case may be.
- (g) However, should the Town Tax Collector so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure:
 - (1) The Town Tax Collector shall present, in the name of the Town of Houston, to the Superior Court of the State of Delaware, in and for Kent County, a petition in which shall be stated:
 - (A) The name of the taxable;
 - (B) The year for which the tax was levied;
 - (C) The total amount due;
 - (D) The total amount due;
 - (E) The date from which interest and the penalty for nonpayment shall commence and the rate of such interest and penalty and any collection charge permitted;
 - (F) A reasonable, precise description of the lands and tenements proposed to be sold;

- (G) A statement that the bill of said tax has been mailed to the taxable at his last known post office address with return receipt requested by certified mail and postage prepaid;
 - (H) That it has been found impractical to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the Town Tax Collector and shall be verified before a Notary Public.
- (2) At least ten (10) days prior to the filing of any such petition as described herein, the Town Tax Collector shall deposit in the mail, in a sealed and stamped envelope and addressed to the taxable at his last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties, collection charges, and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The Town Tax Collector shall exhibit the return registry receipt to the Court by filing the same with the petition; PROVIDED, HOWEVER, that if the taxpayer cannot be found, it shall be sufficient for the Tax Collector to file with said petition the evidence that such statement has been mailed in accordance with this Subsection and has been returned.
 - (3) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court, in and for Kent County, and shall endorse upon the said record of said petition the following: "This petition, filed the day of , A.D., and the Town Tax Collector of the Town of Houston is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." This endorsement shall be signed by the Prothonotary.
 - (4) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in public places in the Town of Houston and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the day fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.
 - (5) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Kent County, at the next term thereof following the sale, and the court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the Town Tax Collector making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.
 - (6) No sale shall be approved by the Superior Court if the owner be ready at court to pay the taxes, penalty, collection fees and cost; no deed shall be made until the expiration of one (1) year from the date of the sale within which time the owner, his heirs, executors, or assigns, shall have the power to redeem the lands on payment to the purchaser, his personal representatives or assigns, the costs, the amount of the purchase price, and twenty percent (20%) interest thereon and the expense of having the deed prepared.
 - (7) After satisfying the tax due and the costs of expense of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, upon the refusal of the said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the Town of Houston either to the credit of the owner or in a manner in which the fund may be identified.
 - (8) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed to be deducted from the proceeds of the sale or chargeable against the owners, as the case may be:
 - (A) To the Prothonotary for filing and recording the petition, One Dollar (\$1.00);
 - (B) For filing and recording the return of sale, One Dollar and Fifty Cents (\$1.50);

- (C) To the Town Tax Collector for preparing the Certificate, Twenty-Five Cents (\$.25), for making the sale of lands, Two Dollars (\$2.00), for preparing and filing a return, One Dollar and Fifty Cents (\$1.50), for posting sale bills, One Dollar (\$1.00). In addition, the costs of printing handbills, the publication of the advertisement of sale in a newspaper, and the auctioneer's fee shall be chargeable as costs. The costs of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer. The total of any Delaware transfer tax shall be paid by the purchaser of said lands at the tax sale.
- (9) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of the sale.
- (10) If any person is assessed for several parcels of land and tenements in the same assessment in the Town of Houston, the total of said taxes may be collected from the sale of any part or portion of said lands and tenements, provided that the land alienated by the delinquent taxpayer shall not be sold until other property of the taxpayer shall have been disposed of and there still remains a delinquency.
- (11) In the event of death, resignation or removal from office of the Town Tax Collector of the Town of Houston before the proceedings for the sale of lands shall have been completed, his successor in office shall succeed to all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment, or otherwise, may refer to the Superior Court of the State of Delaware, in and for Kent County, a petition representing the facts and praying for an order authorizing and requiring the Town Tax Collector to execute and acknowledge a deed conveying to the petitioner the premises so sold or a just portion thereof; and thereupon the court may make such order touching the conveyance of the premises as shall be according to justice and equity.
- (12) The Town Tax Collector shall have the right to require the aid or assistance of any person or persons in the performance of his duty of sale which the Sheriff of Kent County now has by law or may hereafter have.

Town Budget

Section 29.

- (a) The fiscal year for the Town of Houston shall be as determined by Resolution of the Town Council.
- (b) Annually each year at the regular May Meeting of the Council, the Mayor shall present a rough draft of the Town Budget for consideration by the Council members. From this rough draft, the Town Council shall, at the regular June meeting, by majority vote, adopt a final Town Budget for the ensuing fiscal year, containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.
- (c) The budget shall contain the following information:
- (1) A detailed estimate showing the expense of conducting each department and office of the Town for the ensuing fiscal year;
 - (2) The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof;
 - (3) The amount of the debt of the Town, together with 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 foot 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.
- (e) The budget shall be posted in four (4) public places in the Town within one week following its adoption, and shall be available for any resident and/or taxpayer.

Enumeration Of Powers

Section 30.

- (a) Not by way of limitation upon the power vested in the Town Council of the Town of Houston 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 this Charter with the following powers, to be exercised by the Town Council in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs, that is to say:
 - (1) To prevent vice, drunkenness and immorality;
 - (2) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;
 - (3) To prohibit all gaming and fraudulent devices;
 - (4) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;
 - (5) To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair or replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, wharf, dock, sewer, drain, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb, or gutter or portion thereof in the Town; so 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 contacts or agreements for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare within the Town;
 - (6) To regulate or control the observance of the Sabbath Day;
 - (7) To establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same;
 - (8) To locate, regulate, license, restrain or require the removal of slaughter houses, wash houses, laundries, canning establishments, phosphate, fish, fertilizer and manure plants or establishments, swine pens, privies, water closets in any businesses or building 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, strand, sidewalks, crosswalk, wharf, dock, sewer, drain, aqueduct, or pipeline of the Town;
 - (11) To define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare;
 - (12) To provide an ample supply of pure water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes,

water mains, fire hydrants and all other equipment, property or rights used in or about the collection, storage, purification, conveyance, or distribution or sale of water; to regulate and prescribe for what public or private purposes the water furnished by the Town of Houston may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any wilful or negligent injury, or damage to or interference with the water system or the equipment, property or rights of the Town; to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the municipality itself.

- (13) To provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town; to regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any wilful or negligent injury or damage to, or interference with the said system, plan or facilities. To furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits. In the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the Town itself.
- (14) To provide, construct, extend, maintain, manage and control the 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, lake, strands, sidewalks, crosswalks, wharfs, docks, public buildings or other public places in the Town, and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of 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 purpose the current or gas furnished by the Town may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any wilful or negligent injury or damage to or interference with the electric or gas system or systems of the Town; to furnish or refuse to furnish electric current or gas from the Town's system or systems, to places and properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness by the Town itself.
- (15) To fully control within the Town the drainage of all water and to that end to alter or change the course and direction of any natural water course, runs or rivulet within the Town, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town.
- (16) To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, or fills for the preservation of any strand or high land within the limits of the Town and contiguous thereto to the end that the same may be preserved, property protected that the general public might enjoy the use thereof.
- (17) To grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such considerations as the Town Council shall deem in the best interest of the

municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, wharfs, docks and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, railroad excepting railroads or railways engaged in Interstate Commerce, bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms, or corporation residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof, and for the purpose of erecting wharfs and piers and for the purpose of vending any article or merchandise 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 30 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, highways, parks and grounds of the Town and to authorize or prohibit the removal or destruction of said trees;
- (20) To direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter;
- (21) To provide for or regulate the numbering of houses and lots on the streets and the naming of 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 any by virtue of 22 **Del. Laws**, c. 3, of 1974, and all amendments heretofore or hereafter adopted;
- (24) To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town which shall be used as a place of detention for persons convicted of violation of law or ordinance, or for detention of persons accused of violation of law or 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 Kent 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 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, tapping fee, charge growing out of the abatement of nuisances and the like, laying out and repairing sidewalks, curbs or gutters, or other charges due the Town and to sell the same;
- (30) To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; PROVIDED, HOWEVER, that the amount to be raised from this course 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 hereinbefore 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 Houston to be used for any and all municipal purposes;
- (32) To levy and collect taxes upon all telephone, telegraph, power poles, pipelines, rail lines, or other constructions or erections of a like character, erected within the limits of the Town, together with the wire or other appliances thereto or thereon attached; 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 of such construction 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 27 of this Charter, the Town Council shall have the authority to cause the same to be removed;
- (33) To license, tax and collect fees annually for any and all municipal purposes (including the cost and expense of advertising the Town) of such various amounts as the Town Council from time to time shall fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of the Town; PROVIDED, HOWEVER, that nothing contained herein shall be so construed as to make it mandatory upon any resident of the State to apply for a license in order to sell in the Town any farm produce or products grown upon a farm owned by the vendor or any member of his family with whom he resides;
- (34) To determine from which authorized source and in what proportion taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the Town and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness;
- (35) To provide for the collection of and disbursement of all moneys to which the Town may become entitled by law, including licenses and fines where no provision for the collection and disbursement thereof is otherwise provided in this Charter;
- (36) To borrow money in the name of the Town for any proper municipal purpose and in order to secure the payment of the same to issue bonds or other forms or kinds of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Town Council shall select for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all state, county or municipal taxes; PROVIDED, HOWEVER, that in no event shall the indebtedness of the Town for any and all purposes at any one time exceed 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 hereinbefore mentioned;
- (37) To acquire, and/or to vacate the use of lands, tenements, personalty, property, easements, rights of way, or any interest in property, either within or without the limits of the Town, by way of condemnation and eminent domain for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power

conferred upon or delegated to the Town of Houston by this Charter. Proceedings by way of condemnation in any case shall be as prescribed in 10 **Del. Laws**, c. 61, of 1974, as heretofore or hereafter amended;

- (38) To appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency;
- (39) To provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge, or other amount due the Town by the performance of labor or service for the Town by any person owing the same;
- (40) To inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena;
- (41) To establish 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 Houston 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 Houston, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of the Town of Houston, duly authorized by Resolution adopted by the Town Council of the Town of Houston, and signed by the Mayor of the Town of Houston, 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 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 necessary to pay the principal or the interest on said bonds as is required without regard to any other limitation concerning the maximum rate of taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof;
- (43) To make, adopt and establish all such Ordinances, Regulations, Rules, and By-Laws not contrary to the laws of this state and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants; PROVIDED, HOWEVER, that any Ordinance relating to the public health of the Town and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same shall apply not only within the corporate limits of the Town but as well to all areas and persons outside the Town within one (1) mile from said limits.

Streets

Section 31.

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

real estate and the owner of such property if his address be known; if there be no holder or tenant resident in said Town, and the address of the owner be unknown, or if there is a holder or tenant and the address of the owner is unknown, the said notice may be affixed to any part of the premises. If the owner be dissatisfied with the amount of compensation or damages allowed by the Town as aforesaid said property owner may, within ten (10) days after such notice as aforesaid was posted or mailed, appeal from written notice of assessment or compensation or damages allowed by the Town as aforesaid; said property owner may, within ten (10) days after such notice as aforesaid was posted or mailed, appeal from written notice of assessment or compensation or damages by serving written notice, by certified mail with return receipt requested and postage prepaid, on the Mayor of the Town to the effect that he or she is dissatisfied with the amount of such compensation or damages, and that it is his or her intention to make written application to one of the Judges of the Superior Court of the State of Delaware, in and for Kent County, for the appointment of a commission to hear and determine the matter in controversy; and in order to prosecute said appeal, such owner shall, within fifteen (15) days after serving said notice upon the Mayor as aforesaid, make written application to said Judge of the Superior Court of the State of Delaware, in and for Kent County, for the appointment of such a commission; and thereupon the said Judge shall issue and appoint a commission directed to five (5) freeholders of said county, three (3) of whom shall be residents of the Town of Houston, and two (2) of whom shall be nonresidents of said Town, requiring them to assess the damages which the owner of the real estate through or over which the said street, lane or alley shall pass, or who shall have suffered damage because of any other action taken by the Town pursuant to the provisions hereof, and who shall have notified the said Town Council of their intention to appeal may incur by reason thereof, and to make a return of their proceeding to the said Judge at the time therein appointed.

- (4) The freeholders named in such commission, being first duly sworn or affirmed, shall view the premises and may, or a majority of them, shall assess the damages as aforesaid and shall make return in writing of their proceedings to the said Judge who shall deliver and return to the Town Council which shall be final and conclusive. The said Judge shall have the power to fill any vacancy in the commission. The amount of damages being so ascertained, the Town Council may pay or tender the same to the person or persons entitled thereto within thirty (30) days after the same shall be finally ascertained; or if the person or persons so entitled reside out of or are absent from the Town during the said period of thirty (30) days, then the same shall be deposited to her credit in the Wilmington Trust Company, with offices in Milford, Kent County, Delaware, within said time, and thereupon the said property or lands may be taken or occupied for the use as aforesaid.
- (5) If the ascertainment and assessment of damages by the freeholders appointed by the Judge as aforesaid shall be increased, the cost of the appeal shall be paid by the Town out of any money in the hands of the Town Manager belonging to the Town; but if said damages shall not be increased, the cost of the appeal shall be paid by the party appealing. The said freeholder members of the commission shall receive and be entitled for each day's actual service or any part of a day the sum of Five Dollars (\$5.00). After the damage shall be fixed and ascertained by the freeholders, the Town Council shall have the option to pay the damages assessed within the time aforesaid, and to proceed with the said improvements, or upon the payment of the costs only, may abandon the proposed improvements. In the event that either party feels that the damages assessed are not just as being excessive or inadequate, an appeal may then be prosecuted by the Supreme Court of the State of Delaware.

Curbing And Paving

Section 32.

- (a) Whenever the Town Council shall have determined that any sidewalks, and/or curbing shall be done, it shall cause a notice to be sent to the owner or owners along or in front of whose premises the same is to be done, particularly designating the nature and character thereof,

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

Collection Of Charges Due The Town

Section 33.

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

Power To Borrow Money And Issue Bonds

Section 34.

- (a) The Town Council may borrow money and issue bonds or certificates of indebtedness to secure the repayment thereof on the faith and credit of the Town of Houston to provide funds for the erection, extension, enlargement, purchase or the repair of any plant, machinery, appliances, or equipment for the supply, or the manufacture and distribution of electricity or gas for light, heat or power purposes; for the furnishing of water to the public, for the construction, repair and improvements of highways, streets or lane or the paving, curbing or erection of gutters and curbs along the same; for the purchase of real estate for any municipal purpose; for the construction or repair of sewage disposal equipment; or to defray the cost or the share of the Town of the costs of any permanent municipal improvements; PROVIDED, HOWEVER, that the borrowing of money therefor shall have been authorized for the Town Council in the manner following:
 - (1) The Town Council by resolution shall propose to the residents and property owners of the Town that the Town Council proposes to borrow a certain sum of money for any of the purposes above stated. The resolution shall state the amount of money desired to be

borrowed, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan which are deemed pertinent by the Town Council and in their possession at the time of the passage of the resolution and shall fix a time and place for a hearing on the said resolution.

- (2) Notice of the time and place of the hearing on the resolution authorizing said loan shall be printed in a newspaper having a general circulation in the Town or distributed in circular form at least one week before the time set for the public hearing.
 - (3) Following the public hearing, a second resolution shall then be passed by the Town Council ordering a special election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing to borrow the said money, the said special election to be for the purpose of voting for or against the proposed loan. The passing of the second resolution calling a special election shall ipso facto be considered the determination of the Town Council to proceed with the matter in issue.
 - (4) The notice of the time and place of holding the said special election shall be printed in two (2) issues of a newspaper having a general circulation in the Town of Houston within thirty (30) days prior to the said special election, or both, at the discretion of the Town Council.
 - (5) At the said special election, every citizen of the Town of Houston shall have one vote, and in addition, every partnership or corporation owning property within the corporate limits of the Town of Houston shall also have one vote; and the said votes may be cast either in person or by proxy.
 - (6) The Town Council shall cause to be prepared, printed and have available for distribution a sufficient number of ballots not less than five (5) days prior to the said special election. The special election may, at the discretion of the Town Council, be conducted by the use of voting machines or by paper ballot. The Mayor of the Town of Houston, by and with the advice and consent of the majority of the Town Council shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened from 12:00 noon prevailing time, until 6:00 in the evening, prevailing time, on the date set for the special election.
 - (7) The Board of Special Elections shall count the votes for and against the proposed loan and shall announce the result thereof. The Board of Special 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 certificates 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 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 for at least one (1) month before offering the same for sale.
 - (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 Houston shall be deemed to be pledged for the due payment of the bonds and interest thereon issued pursuant to the provisions hereof when the same had been properly executed and delivered for value.
- (b) The bonded indebtedness shall not at any time exceed in the aggregate the total sum of twenty-five (25) percent of the value of real property situated within the limits of the Town of Houston shown by the last assessment preceding the creation of the said indebtedness.

Actions Or Suits**Section 35.**

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

Compendium**Section 36.**

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 Houston. 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, currents, rules and regulations, or upon the enactment of amendments to same, the Town Council shall enroll the same in the minutes of the Town Council and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish the Mayor of the Town of Houston 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 37.**

- (a) All powers conferred upon or vested in the Town Council of the Town of Houston 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 Houston and/or the Town Council of the Town of Houston precisely as of each of said powers was expressly set forth in this Charter.
- (b) All ordinances adopted by the Town Council of Houston 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 Houston under the provisions of this Charter.
- (c) All of the acts and doings of the Town Council of Houston or of any official of the Commissioners of Houston 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 Houston or under any provision of any prior Charter of the Town Council of the Town of Houston prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provides herein.
- (d) All taxes, assessments, license fees, penalties, fines, and forfeitures due the Town Council of Houston or the Town of Houston shall be due the Town of Houston and all debts from the Town or the Town Council of Houston shall remain unimpaired until paid by the Town of Houston.
- (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 Houston.
- (f) The bonds given by or on account of any official of the Town Council of Houston shall not be impaired or affected by the provisions of this Charter.
- (g) All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter be and the same are hereby repealed to the extent of any such inconsistency.

- (h) If any part of this Charter shall be held to be unconstitutional or invalid by a Court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions of this Charter.
- (i) This Charter shall be taken as and deemed to be a Public Act of the State of Delaware.

Approved July 12, 1978.