

## Leipsic

### Article I Incorporation

#### 1.1 Incorporation

The inhabitants of the "Town of Leipsic," within the corporate limits as defined in Section 1.2 of this Act or as subsequently altered by annexation procedures, shall be known as the "Town of Leipsic" and contracted to be a municipal body politic and corporate in perpetuity.

#### 1.2 Boundaries

- (a) The boundaries of the Town of Leipsic are hereby established and declared to be the same boundaries and limits that have been heretofore determined and are as designated and delineated on a plot of the Town of Leipsic that is on record in the Office of the Recorder of Deeds in Dover in Plot Book 1, pages 5-6, and such other premises and real property as the Town of Leipsic may acquire.
- (b) The Council of the Town of Leipsic may cause a survey and plot to be made of the said boundaries at any time hereafter and the said plot, when made and approved by the Council, may be recorded in the Office of the Recorder of Deeds in Dover, Delaware, and the same, the record thereof, or a duly certified copy of said record, shall be evidence in all courts of law and equity in this State.

#### 1.3 Annexation

- (a) If and when a majority of the property owners in an unincorporated territory contiguous to the Town of Leipsic sign a petition seeking to have the area in which they reside annexed to the Town of Leipsic, they shall submit the petition and a survey of the area proposed to be annexed to the Town Council. The petition shall be considered by Council in the form of a resolution proposing the inclusion of the area within the limits of the Town of Leipsic and calling for a special election to be held in accordance with Title 22, Chapter 1, Section 101 of the Delaware Code.
- (b) Said resolution shall contain a description of the territory proposed to be annexed and shall specify the date of the special election, which shall be not less than thirty nor more than sixty days after the adoption of said resolution, the place where said election shall occur, and the manner in which said election will be held.
- (c) If the resolution on the proposed annexation is approved by Council, the question of annexation shall be submitted (1) to the residents of the territory proposed to be included in the Town of Leipsic, and (2) to the citizens of Leipsic.
- (d) If a majority of the votes cast in the election, both of the residents of the territory proposed to be annexed, and of the citizens of Leipsic voting, shall be in favor of the inclusion of that territory, the Council may adopt a resolution annexing said territory and including the same within the limits of the Town of Leipsic. Upon the adoption of said resolution, a copy thereof and a plot of the area annexed shall be filed forthwith for record with the Office of the Recorder of Deeds in Dover and the area so annexed shall for all purposes thenceforth be part of the Town of Leipsic.
- (e) If a majority of the votes cast in the election, either of the territory, or of the residents of Leipsic, shall be against the inclusion of that territory within the Town of Leipsic, the proposed annexation of said territory shall be declared to have failed. Nothing in this section shall prohibit Council from resubmitting a proposal of annexation to the voters of said territory, or any portion thereof, under the authority of this section and in accordance with the provisions thereof. (75 Del. Laws, c. 96, 6/30/05)

**Article II Powers Of Town****2.1 Powers of Town**

- (a) The Town of Leipsic shall have all the powers granted to municipal corporations and to towns by the Constitution and general laws of the State of Delaware, together with all the implied powers necessary to carry into execution all the powers granted. The Town of Leipsic shall continue to enjoy all powers which have been granted to it by special acts of the General Assembly of the State of Delaware, except insofar as they may be repealed by the enactment of this Charter. The Town of Leipsic, as a body politic and corporate, shall succeed to, own, or possess all property whether real, personal, or mixed, and all the rights, privileges, franchises, powers and immunities now or heretofore belonging to, possessed by, or enjoyed by the former corporation known as "The Town of Leipsic."
- (b) The Town of Leipsic may have and use a corporate seal, may sue and be sued, may acquire property within or without its corporate limits by purchase, gift, devise, lease, or condemnation, for the purpose of providing sites for public buildings, parks, sewer systems, sewage treatment plants, water systems, water plants, gas or electric systems, or other municipal purposes, and may sell, lease, mortgage, hold, manage, and control such property or utility as its interests may require; and, except as prohibited by the Constitution of the State of Delaware or restricted by this Charter, the Town of Leipsic shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.
- (c) The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, it is intended that the Town of Leipsic shall have and may exercise powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate. All powers of the Town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in a manner provided by ordinance or resolution of the Council.
- (d) This Charter shall be construed liberally in favor of the Town, and nothing in this Charter shall be construed as exempting any individual or agency from the operation of this section.

**2.2 Intergovernmental Relations**

The Town of Leipsic may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

**Article III Structure Of Government****3.1 Composition of Government**

The government of the Town of Leipsic and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in six (6) Council members, one of whom shall be chosen by them as President.

**3.2 Qualifications for Council**

Any citizen of the United States who is at least twenty-one (21) years of age and who, for the period of at least (15) years immediately preceding election to office, has not been convicted of a crime involving moral turpitude or a crime which would be a felony if committed in Delaware, and who has resided or owned real property in the Town for at least one (1) year prior to the election, shall be eligible to hold the office of Council member.

**3.3 Term of Office**

Council members shall be elected to serve a term of three (3) years, effective with the organizational meeting following their election, or until their successors are duly chosen.

**3.4 Council Prohibitions**

Except where authorized by law, no Council member shall hold any other Town office during the term for which said member was elected to the Council, and no former Council person shall hold any full-time employment with the Town until one (1) year after the expiration of the Council term.

**3.5 Vacancies and Forfeiture of Office**

- (a) The office of a Council member shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.
- (b) A Council member shall forfeit said office for: (1) failure to possess, at any time during the term of office, any qualification for the office prescribed by this Charter or by law; (2) violation of any express prohibition of this Charter; (3) conviction of a crime involving moral turpitude or a crime which would be a felony if committed in Delaware; (4) failure to attend three consecutive regular meetings of the Council without being excused by Council; or (5) any physical, mental, or emotional disability which renders the Council member incapable of performing the functions of office.
- (c) In the case of a vacancy for any cause, the Council, by a majority vote of all its members, shall appoint a qualified person to fill the vacancy until the next regular election of the Town of Leipsic, at which time the vacancy shall be filled by an election for the unexpired term, if any. The vacancy shall be announced at a regular Council meeting and the vote on a person to fill the vacancy shall not be held before the next Council meeting. Despite the quorum provisions outlined in Section 3.13, if, at any time the membership of the Council is reduced to less than four (4), the remaining members may appoint additional members by majority action to raise the membership to six (6).

**3.6 Judge of Qualifications of Members**

The Council shall be the judge of the election and the qualifications of its members and of the grounds for forfeiture of office and, for such purposes, shall have the power to subpoena witnesses, take testimony, and require the production of records. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand; notice of such hearing shall be published in one or more newspapers of general circulation in the Town at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

**3.7 Compensation**

The Council shall determine the annual salary of the Council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the members of Council elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months. Members of the Council shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties of office.

**3.8 Meetings of Council**

- (a) The members of the Town Council shall meet for the purpose of organization on the first Monday in March following the election and shall organize by the election of a President/ Mayor, a Secretary, a Treasurer, a Deputy Mayor, and such other officers as shall be found necessary. The President, Secretary, Treasurer, and Deputy Mayor shall be members of Council, but no member shall hold more than one (1) elective office during any one term.
- (b) Regular meetings of Council shall be held every other month on the first Monday of March, May, July, September, November, and January. Additional meetings may be called by the Mayor or upon the written request of any three (3) members of the Council which shall be

presented to the Mayor. Whenever practical, each member shall receive no less than eight hours notice of such additional meetings.

- (c) All Council meetings shall be open to the public; provided, however, that the Council may call an executive session in accordance with state law. The general subject matter under consideration in an executive session shall be expressed in the motion calling for such session, and final action thereon shall not be taken by the Council until the matter is placed on the agenda.
- (d) If a Council member cannot attend a Council meeting, he/she shall so notify the Council President prior to the meeting. If the Council President is not available, the member shall notify another member of Council.

### **3.9 Council President/Mayor**

- (a) The President shall be the executive of the Town of Leipsic and shall also be known as the Mayor of the Town. The President shall serve as the head of Town government for all ceremonial purposes and for purposes of military law. The President shall: preside at all meetings of the Council and have a vote therein; execute all agreements, contracts, bonds, deeds, leases, and other necessary documents on behalf of the Town when authorized by the Council; attest the seal of the Town when authorized by the Council; appoint all committees; sign all warrants authorized by the Council and drawn on the treasurer for the payment of money; issue and sign all licenses for every exhibition with the Town of Leipsic for which a license is or may be required; have all and every power conferred; and perform all duties imposed upon the office by this Charter and the ordinances of the Town of Leipsic.
- (b) At the organizational meeting, a Council member shall be elected to serve as the Deputy Mayor. During the temporary absence, vacancy in office, or disability of the Mayor, the Deputy Mayor shall have all the powers and duties of the Mayor.

### **3.10 Council Secretary**

The Secretary shall record all the proceedings of the Council and keep a correct record of the same in a book to be provided for this purpose. The Secretary shall also keep all papers and documents relative to the affairs of the Town in a safe place and shall deliver the same to his/her successor in office. The Secretary shall perform such duties and have such other powers as may be prescribed by the Council. All records, books, papers, and documents in the custody of the Secretary shall be open for inspection by the Council and the public under such regulations as Council may prescribe.

### **3.11 Council Treasurer**

- (a) The Council shall elect a Treasurer for a term of one (1) year or until a successor is duly elected and qualified. Before entering the duties of this office, the Treasurer – elect shall be sworn or affirmed by the President of the Town Council to perform the duties of the office honestly, faithfully, and diligently. The Town Treasurer shall be the custodian of all funds of the Town of Leipsic and shall insure that all funds are deposited in the institutions designated by Council.
- (b) The Treasurer shall not pay out any money except if authorized by the President of Council shall keep a true, accurate and detailed account of all monies paid; shall preserve all vouchers for monies paid; and shall maintain books and accounts which shall be open to inspection at all times by the President or other members of Council. The Treasurer shall submit a written report of all receipts and disbursements at each regular Council meeting; this report shall be entered in the minutes of said meeting.

### **3.12 Rules of Procedure**

The Council shall determine its own rules of procedure and order of business and shall provide for keeping a journal of its proceedings. This journal shall constitute a public record which shall be open to public inspection. Except on procedural motions, voting may be by roll call, and the ayes and nays shall be recorded in the journal.

**3.13 Quorum and Majority Requirements**

Four members of the Council shall constitute a quorum to do business, but a smaller 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. No ordinance shall be valid unless it shall have the affirmative vote of four (4) or more members of the Council. Resolutions, orders, and motions shall be valid upon the affirmative vote of a majority of the members of the Council present. No member shall be excused from voting on ordinances, resolutions, orders, or monies, except where a member of Council has a conflict of interest, in which event, said member shall disqualify himself from voting. The other members of the Town Council shall, by majority vote, be the sole judge as to whether a conflict of interest exists.

**Article IV Powers Of Council****4.1 General Powers**

- (a) All powers of the Town shall be vested in the Council, except as otherwise provided by law or by this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by law and this Charter.
- (b) The Council members shall constitute the legislative body of the Town of Leipsic and together shall be designated as the Town Council.
- (c) The Council shall have the power to adopt ordinances relating to the health, safety, and welfare of the Town population and the introduction or spread of infectious or contagious diseases or nuisances affecting the Town. This power shall extend to the area inside the Town limits and within one (1) mile from said boundaries.
- (d) The Council may also pass ordinances to ascertain and fix boundaries of streets, squares, lanes, and alleys; to repair, amend the same, or provide for the paving thereof; to close, alter, extend, or widen any street, square, lane, or alley or open and lay out new ones subject to the provisions contained herein; to regulate the ascent and descent of all streets, lanes, and alleys; to fix the building lines upon the same; to direct the paving of footways and prescribe the width thereof; to direct the laying out of gutters and prescribe the depth thereof; and to prescribe the extent of steps, porches, cellar doors, and other inlets to yards and buildings.
- (e) The Council shall have power to provide for police protection and the lighting of streets at the expense of the Town and to prescribe and regulate the use of the streets, lanes, and alleys of the Town and to have and exercise control over the same, subject to the provisions hereinafter contained.
- (f) The Council shall have the power to provide for the regulation of auctions and auctioneers, public amusements, and other businesses conducted within the Town.
- (g) The Council shall have the power to regulate the construction of all buildings, dwellings, and other structures within the Town, including but not limited to the power to regulate the height and width thereof, the types of materials to be utilized, and the means of erecting same, as well as the power to make provisions for the enforcement of such regulations.
- (h) The Council shall have the power to regulate the storage of gunpowder or any other dangerous substance within the Town.
- (i) The Council shall have power to lay and collect fines on the owners of any horse, cow, dog, or other animal which may be found at large in any of the streets, squares, lanes, or alleys.
- (j) The said Council shall have power, also by ordinance, to appoint a Town surveyor to make a plot or map showing the ascent and descent of all streets, lanes, and alleys, the building lines upon the same, and generally to do and perform all such matters and things as they may deem necessary for carrying into effect the provisions in this Section.
- (k) The Council shall have power, by ordinance or regulation, to trim, remove, or cause the owners thereof to trim or remove any and all trees, bushes, shrubbery, weeds, or other vegetation, garbage, debris, or other offensive products whatsoever situated in the said Town which Council shall deem to constitute a public nuisance or menace to the public welfare, safety, or traffic.

- (l) The Council shall have the power to invest funds of the Town not required for immediate use in securities of the United States and/or in insured savings accounts.
- (m) The Council shall have all other powers requisite to and appropriate for the government of the Town of Leipsic, its peace and order, its sanitation and beauty, and for the health, safety, welfare, convenience, comfort and well-being of its population, and for the protection and preservation of public and private property, and in general shall have the power to do all things necessary for the well being of said Town which shall not be in contravention of any existing laws of this State or the Constitution thereof. Nothing in this Charter shall be construed as exempting any individual or agency from the operation of this section.

#### **4.2 Ordinance Procedure**

Every ordinance shall be introduced in writing. No ordinance shall be passed unless it shall have the concurrence of a majority of the members elected to the Council and unless it shall have been read in its entirety at least one time prior to the taking of the vote thereon. All ordinances passed after the effective date of this Charter shall be copied into the records of the Council, and an index of such ordinances shall be kept by the Secretary.

##### **4.2.2 Emergency Ordinances**

To meet a public emergency affecting life, health, property, or the public peace or safety, the Council may adopt emergency ordinances, but such ordinances may not levy taxes or grant, renew, or extend a franchise. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four (4) members of Council shall be required for adoption. After its adoption, the ordinance shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, including any amendments made after its adoption, shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, unless extended by regular ordinance action by Council, and it shall be the duty of the Council Secretary to so notify the Council.

##### **4.2.3 Codes of Technical Regulations**

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally.

#### **4.3 Power to Raise Revenues**

- (a) The Council shall have the power to levy and collect taxes on real property within the limits of the Town, except that which is not assessable and taxable by virtue of any law of the State of Delaware, which shall not be more than 2% of the assessed valuation of the assessable and taxable real estate within the Town in any year, provided, however, in addition thereto, the Council shall have the power to levy the taxes necessary to service the bonded indebtedness of the Town.
- (b) The Council shall likewise have the power to levy and collect taxes, commonly known as a "capitation tax," upon the individual residents of the Town who are eighteen years old or over.
- (c) The Council shall have the power by ordinance to allow discounts for early payment of taxes, to impose reasonable penalties and forfeitures for tax delinquencies, and to review and determine proper and appropriate properties to be exempt from taxation.

#### **4.4 The Town May Engage in Business**

- (a) The Town of Leipsic shall have the right to engage in any business or enterprise in which a person, firm, or corporation might engage by virtue of a franchise. The Town shall also have the right and power to acquire, own, and maintain, within the corporate limits of such Town, all

real estate for municipal purposes for sites and right-of-ways for public utility and general welfare purposes and for the location, erection, and maintenance thereon of municipal plants and public facilities.

- (b) The Town of Leipsic shall have the exclusive right to grant franchises within the Town boundaries.
- (c) In any case where the Council may deem it to be in the best interests of the people of the Town of Leipsic to acquire the properties of any privately-owned utility, the Town of Leipsic shall respect the franchise rights of the owners and shall in all respects adhere to the general laws of the State of Delaware insofar as they relate to utility properties owned by municipalities.
- (d) The Town may, in its discretion, distribute water throughout all the territory included within the Town boundaries and also any contiguous territory within five (5) miles of the Town limits. The Council shall determine the person or persons, firm or firms, corporation or corporations, to which the Town shall distribute water throughout said territory; shall fix the rates therefor; shall regulate the use of said water, and shall supply the same upon such terms and conditions as may be agreed upon by the Council and said person or person, firm or firms, corporation or corporations. The Town shall have and exercise all the power and authority necessary to the accomplishment of said distribution of water throughout the said territory as it now has and possesses in the installation, operation, and maintenance of its water system in the Town and in the distribution of water within the Town limits, including the authority and power to acquire by purchase or condemnation such land and any real and personal property as may be necessary therefor.

#### **4.5 Borrowing for Current Expenses**

- (a) Whenever the needs of the Town shall require more money than is, at the time, in the Town treasury from current receipts, the Council shall be authorized and empowered to anticipate current revenue by borrowing such amounts as are needed; provided, however, that the amount of such indebtedness shall not at any time exceed one (1%) percent of the assessed valuation of the assessable and taxable real property within the limits of the Town or shall not exceed Two Hundred Thousand Dollars (\$200,000.00), whichever is greater.
- (b) To exercise the power aforesaid the Council shall adopt a resolution to that effect, which resolution shall be by roll call and require the affirmative vote of at least four (4) of the members of Council. The indebtedness created under this provision shall be evidenced by notes of the Town, and the full faith and credit of the Town shall be deemed to be pledged thereby. Such short-term debt shall not be considered as part of the bonded debt of the Town when limitations under indebtedness, as set forth elsewhere in this Chapter, are computed.

#### **4.6 Power of Council Over Streets**

- (a) Upon the majority vote of its members, the Council shall have the power to locate, lay out, and open any new street, lane, or alley or widen any street, lane, or alley heretofore laid out in said Town or reopen any old street, lane, or alley now closed.
- (b) The owners of the property, through and over whose lands such street, lane, or alley may pass, shall receive just compensation as Council shall deem just and reasonable under all circumstances. Said compensation, if any be allowed, shall be paid by the Treasurer of the Town out of the monies of said Town upon warrants drawn by order of Council.
- (c) Whenever the Town Council shall have determined to locate, lay out, or widen any street, lane, or alley and shall have fixed the compensation therefor, it shall be its duty immediately after the survey and location of the said street, lane, or alley, to notify, in writing, the owner or owners of the real estate through or over which said street, lane, or alley may run, of its determination to open or widen the same, and to furnish a general description of the location thereof and also the amount of the damages or compensation allowed to each.
- (d) Any owner who may be dissatisfied with the amount of compensation or damages allowed by the Town Council may appeal within ten (10) days by serving a written notice to that effect on the President of the Council. The Council shall hold a meeting to hear from the aforesaid

- owner of the property and other interested residents of the Town. After this meeting, the Council shall decide whether or not to proceed with the improvements. If Council elects to proceed with the work, in order to prosecute an appeal, the appellants shall, within fifteen (15) days after the aforesaid appeal hearing before Council, make written application to the Resident Judge of the Superior Court of this State, for Kent County, for the appointment of a commission to hear and determine the matter of damages or compensation.
- (e) Thereupon the said Judge shall issue a commission under his/her hand directed to five (5) qualified voters of the said county, three (3) of whom shall be residents of the Town of Leipsic and two (2) of whom shall be non-residents of said Town. The individuals named in such commission, being first sworn or affirmed on the day and at the hour and place stated in the notice shall view the premises and hear the witnesses and shall determine without delay the damages, if any, which said appellant will sustain by reason of being deprived of any property. Thereupon the said members of the commission shall make a return in writing of their proceedings to the said Resident Judge who shall cause a copy of said return to be delivered to the Council President, and such return shall be final and conclusive. The said Judge shall have the power to fill any vacancies among the members named in such commission. On application within twenty (20) days after the award, the said Judge may set aside a grossly improper award and appoint a new commission. The amount of damages being ascertained, the Town may pay or tender the same to the person entitled thereto within one (1) month after the same shall be finally ascertained or may deposit the same in any bank in the Town to the credit of the person entitled thereto, within the said period of one (1) month, and thereupon the Town may carry into effect the plan contemplated in the resolution aforesaid.
  - (f) After the damages shall be fixed and ascertained by the members of the commission, the Town Council shall have the option to pay damages assessed, within the time aforesaid, and proceed with the said improvements; or, upon the payment of the costs only, the Council may abandon the proposed improvements.
  - (g) In the ascertainment and assessment of damages by the members of the commission, if the compensation is increased, the costs of the appeal shall be paid by the Treasurer of the Town of Leipsic. If said compensation is not increased, the costs shall be paid by the appellant. The fees paid to the members of the commission shall be set by ordinance and shall be taxed as a part of the costs.

#### **4.7 Sidewalks and Gutters**

- (a) Whenever the Town of Leipsic shall determine that public convenience or necessity requires the paving, guttering, or graveling of sidewalks or any or either or all of them, it shall notify the owner or owners of land in front of whose premises the same is to be done and shall designate the nature of the work to be done. Thereupon, it shall be the duty of said owner or owners to cause such paving, graveling, or guttering to be done in conformance with said notice.
- (b) In the event any owner neglects to comply with said notice within thirty (30) days, the Council may proceed to have the same done, and when done the Treasurer of the Town of Leipsic shall, as soon as convenient thereafter, present to the said owner or owners of such lands, a bill showing the expense of paving, graveling, or guttering. If such owner or owners are not resident in the Town of Leipsic, the bill may be presented to the occupier or tenant of said land or, if there be no occupier or tenant resident in the Town of Leipsic, such bill may be sent by certified mail, return receipt requested, to such owner. If said bill is not paid by the owner or owners of such lands within thirty (30) days after presentation, then it shall be the duty of the Council to issue an order in the name of "The Town of Leipsic" under the hand of the President and the seal of the said corporation, directed to the Treasurer of the Town of Leipsic, commanding said official to proceed to collect the delinquent assessment.
- (c) The claim for paving, graveling, or guttering shall be a lien on the premises in front of which the work was done and shall have the same priority and be collectible in the same manner as municipal property taxes.
- (d) Any notice required by this section to one co-owner shall be notice to all; and in case no co-owner resides in the Town, notice may be served upon the occupier or tenant of said premises



resident in the Town. If there be no such occupier or tenant, it shall be sufficient to send said notice by certified mail, return receipt requested, to any owner or said premises. The provisions hereinbefore contained in this section shall apply to any order made by the Council in respect to any such paving, graveling, or guttering heretofore done which the Council may deem insufficient or in need of repair. In addition to the provisions of this section, the Council shall have the power and authority to enforce, by ordinance, all the requirements of this section by imposing such fines and penalties as Council deems necessary and proper.

#### **4.8 Sewer and Water Improvements**

- (a) The Town shall have exclusive jurisdiction and control over drainage within the Town of Leipsic. The Town shall have the right to alter and change the course and direction of the natural watercourses, runs, or rivulets within the Town, and may pass ordinances for the construction of water mains, storm drains, and sanitary sewers within the Town. The Town also shall have the power and authority to regulate, maintain, cleanse, and operate such water mains, storm drains, sanitary sewers, natural water courses, runs, and rivulets within the Town in an open, clear, and unobstructed manner. For that purpose the Town may authorize the entry upon private lands and take, condemn, and occupy the same and by regulation prescribe the mode in which they shall be altered, changed, opened, maintained, cleansed, closed, and kept open and unobstructed, and shall bear the expenses thereof and may, in its discretion, assess the costs of sanitary sewers, water lines, and storm drains upon the property particularly benefited thereby, except such real estate as is exempt from municipal assessment and taxation by virtue of any law of the State of Delaware, and prescribe the mode of collection thereof; provided, however, that nothing herein contained shall be construed to authorize the taking of private property for public use without just compensation.
- (b) The Council may take land by condemnation proceedings and shall have the right to use private land, under, over, or on the surface thereof, for the proper operation or extension of its water and/or sewer systems. The method of procedure by condemnation under this section shall be the same as provided for in Section 4.7 of this Act for the opening and laying out of new streets.
- (c) The Town likewise is authorized to make agreements with Kent County or other municipalities to permit the interconnection of their sewer systems. The Council shall have the right to compel the owner of any building or structure requiring sewage disposal facilities to connect to any sewer main that is available.
- (d) Whenever the Council shall determine that construction, improvement, alteration, or repair of sanitary sewers is required, it shall be empowered and authorized to direct that any necessary survey and other work be undertaken and any costs be determined. Any required work may be done by contract or by Town forces.

#### **Article V New Developments And Subdivisions**

- (a) Whenever it is contemplated that a new real estate development shall be undertaken, the Council shall require the developer to submit plans and supporting documents to the Council for approval prior to the actual construction and/or installation of improvements and utilities.
- (b) Whenever the installation of new facilities is contemplated in a partially developed area, the Council shall make a careful determination of the ability of the area to support the cost of the proposed improvements before approving it. Also, the developer shall be required to provide evidence to the Council that all applicable state and county regulations have been met.

**Article VI Property Assessments****6.1 Property Assessment Procedures**

- (a) Annually, a true, just, and impartial valuation and assessment of all real estate within the Town shall be made, except such real estate as it exempts from municipal assessment and taxation by virtue of any state law or provisions of this Charter.
- (b) It shall be lawful for the Town to enter into an agreement with the Board of Assessment for Kent County to inspect and copy, or obtain copies, of the assessments made for county purposes. Annually, the Council shall make a judgement regarding whether the Town will utilize such county assessments and whether said county assessments are a true, just and impartial evaluation. The use of the county assessment for municipal purposes shall not preclude the Town from modifying the county assessment list to take into account new construction, changes in ownership or use not reflected in the county assessment list, or clear cases of inequitable assessment.

**6.2 Collection of Taxes**

- (a) A list containing the names of the taxables and, opposite the name of each, the amount of real property assessment and the total amount of the tax, shall be prepared as soon as practical after the beginning of the tax year. All taxes shall be paid to the Town Tax Collector subject to such discounts, penalties, and rules as the Council may direct.
- (b) It shall be the duty of the Town Tax Collector to proceed forthwith to collect all taxes in the calendar year in which assessed, as well as all delinquent taxes. In the collection of said taxes, the Tax Collector shall have all powers conferred upon or vested in the Receiver of Taxes and the Treasurer for Kent County.
- (c) The provisions of Chapter 29, Title 25 of the Delaware Code with reference to tax liens, shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter, except that any such lien imposed for taxes shall continue for ten (10) years from the date such lien commences.

**7.1 Fiscal Year**

The fiscal year for the Town Leipsic shall begin with the first day of July in each year and shall end with the next succeeding thirtieth day of June. Such fiscal year shall also constitute the budget and accounting year.

**7.2 Annual Financial Statement**

- (a) Annually, the Council Treasurer shall prepare a financial statement of all fiscal transactions of Town government. This report shall consist of an accurate and complete annual statement of all revenues and expenditures and a list of bank accounts and balances as of the end of the fiscal year. The report shall be submitted to the Mayor within sixty (60) days after the end of the fiscal year.
- (b) The annual financial statement shall be reviewed at a regular Council meeting and, if approved by Council, shall become an official part of the Council minutes.

**7.3 Use of Town Funds**

- (a) The Council shall have full power and authority to use all or any portion of the money in the treasury of the Town for the improvement, benefit, protection, and best interests of the Town, as Council may deem proper, and to use Town money to accomplish and carry into effect all acts and things which it has power to do by virtue of the Laws of Delaware, this Act, and all lawful ordinances and resolutions of Council.

## Article VIII Council Appointments

### 8.1 Town Tax Collector

At the annual organizational meeting of Council on the first Monday in March, the Council shall appoint a Town Tax Collector. In addition to the collection of current and delinquent taxes, the officer shall perform such other duties and services as the Council shall prescribe. The term of office for the Town Tax Collector shall be one year from the first Monday in March. The Town Tax Collector shall serve at the pleasure of Council and shall not be removed during the term of office except for cause and after a hearing before Council. Said officer shall receive such reasonable compensation as the Council shall determine.

### 8.2 Town Attorney

With the approval of Council, the Mayor may appoint a Town Attorney. The Town Attorney shall be an attorney at law who shall have practiced in the State of Delaware for at least three (3) years. The Town Attorney shall be the legal adviser of the Town and shall perform in this capacity such services as may be required by the Mayor or the Council. The compensation for this office shall be determined by Council, and the Council shall also have the power to employ other legal consultants as it deems necessary from time to time.

### 8.3 Town Constable

At the organizational meeting of Council on the first Monday in March, and annually thereafter, the Council shall appoint a Town Constable. The Town Constable shall serve at the pleasure of the Council and shall not be removed during the term of office except for cause and after a hearing before Council. It shall be the responsibility of the Constable to suppress all riotous, turbulent, disorderly or noisy assemblages or gathering of persons in and about any building or in the streets, lanes, squares, alleys, or sidewalks in the Town of Leipsic and to perform all other duties as assigned by Council. The compensation for the Constable shall be determined by Council.

### 8.4 Authority to Employ Personnel

The Council may employ such other officers and employees as it deems necessary to execute the powers and duties provided by this Charter and to operate the Town government.

## Article IX Elections

- (a) On the first Monday in March, the Town of Leipsic shall conduct its annual election and shall fill any vacancies among the Council members. At each and every election, two Council members shall be chosen, each for a term of three (3) years, to replace those Council members whose term of office shall then expire. Voters shall likewise elect Council members to fill vacancies of unexpired terms of office caused by reasons outlined in Section 3.5 herein.
- (b) When the polls have closed, the election officers shall publicly count the votes and shall certify the results of the election to each of the persons elected and to the Council. For each election, the two (2) candidates for Council who have received the greatest number of votes for said office shall be declared elected. When the results of the election have been determined, the election officers shall prepare certificates of election and deliver them to the newly elected members of Council. A certificate of election shall also be given to the Council Secretary to be entered in the minutes of the Town of Leipsic.
- (c) The Council shall set the compensation that the election officers shall receive in connection with the holding of said election.

#### 9.2.3 Polling Place

The election shall be held at the Town Hall or at such other convenient place within the Town limits as Council shall establish by resolution. The Council shall post the place and times of the election on the Town bulletin board and at another public place at least two (2) weeks prior to said election. Such notices shall be signed by the Mayor or Council Secretary.

**9.2.4 Voting Machines**

In any election where one or more Council seats are contested, the polls shall remain open between the hours of 12:00 p.m. and 7:00 p.m., and the election shall be conducted with the use of voting machines obtained from the Department of Elections of Kent County.

**9.2.5 Ballots**

For all Town elections, the names of the candidates shall be mechanically printed on the ballot by the Department of Elections of Kent County.

**Article X General Provisions****10.1 Performance Bonds**

The Town Tax Collector, Council Treasurer, and such other officers and employees of the Town as the Council may require shall give bonds for the faithful performance of their duties in such amounts and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the Town.

**10.2 Oath of Office**

Every member of the Council, the Council President, the Council Treasurer, the Council Secretary, and such other officers or employees as Council may require by ordinance shall, before entering upon the duties of their office, take and subscribe to the following oath of affirmation, to be filed and kept in the office of the Council Secretary:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States; the Constitution of the State of Delaware; and the Charter of the Town of Leipsic, Delaware; and that I will faithfully discharge the duties of the office of \_\_\_\_\_ according to the best of my ability."

**10.3 Severability of Charter Provisions**

If any provision of this Charter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Charter which can be given effect without the invalid provisions or applications, and to this end the provisions of this Charter are declared to be severable.

**10.4 Prohibitions**

It shall be unlawful for the Council or the Town's officers, agents, or employees to make or enter into any contract for materials, supplies, work, or labor for the use and benefit of the Town of Leipsic with any member of the Council or with any partnership in which any member of the Council is a partner, or with any firm or company in which any member of the Council has a financial interest, except with the unanimous consent of the entire Council. Such contract shall be considered null and void without Council's unanimous consent; provided, however, that nothing herein shall prohibit the Council, the Town's officers, agents, or employees, from entering into any contract without such approval where the amount involved in the transaction and other related transactions does not exceed the sum of one hundred dollars (\$100.00).

**Article XI Transitional Provisions****11.1 Former Government in Force**

All ordinances, resolutions, orders, rules, and regulations in force in the Town of Leipsic at the time this Charter takes effect, regardless of the authority under which originally enacted, shall continue in full force and effect until the Council otherwise provides by ordinance, notwithstanding any change in organization effected by this Charter.

**11.2 Continuance in Office**

- (a) All persons holding any non-elective office or employment under the Town of Leipsic at the time this Charter goes into effect shall continue in such office or employment and shall

draw the same rate of compensation as during the month preceding the adoption of this Charter until removed from office or until the compensation is changed.

- (b) The President of the Council of Leipsic shall continue as the President of the Town Council as well as the other officers of the Town of Leipsic, and the Council members shall also continue in office until their successors are elected and qualify as previously provided for in this Charter.

### **11.3 Effective Date**

This Act shall become effective immediately upon its enactment into law.”

(72 **Del. Laws**, c. 466, 7/18/00; 75 **Del. Laws**, c. 96, 6/30/05)