

Lewes**Incorporation****Section 1.**

- (a) The inhabitants of The City of Lewes within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided and the inhabitants of all the public land, whether within the corporate limits of The City of Lewes, as defined herein, or on the public land contiguous to but outside the corporate limits of The City of Lewes, as defined herein, and fronting on the Delaware Bay between the point of Cape Henlopen on the South and Veasey's Inlet on the North are hereby declared to be a body politic and corporate in law and equity and shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of judicature whatsoever by the corporate name of "The City of Lewes."
- (b) For the purpose of this Chapter, a "leaseholder" shall be deemed to mean and include a person holding land under a valid lease, either in his own name or as a coparcener or jointly with his or her spouse from either the State of Delaware or from the Commissioners of Lewes or The City of Lewes for a term of at least ten (10) years whose Lease is recorded in the Office for a term of at least ten (10) years whose Lease is recorded in the Office of the Recorder of Deeds, in and for Sussex County, and who has erected upon the leasehold an improvement having an assessed valuation of at least One Thousand Dollars (\$1,000.00) as shown by the records of The City of Lewes, and, for all purposes of this Chapter, the word "freeholder" shall be deemed to include any person who holds fee simple title to real estate either in his own name, as a tenant in common, or as a joint tenant or as a tenant by the entirety. 69 Del. Laws, c. 97

Territory and Limits**Section 2.**

The present boundaries and limits of The City of Lewes are hereby established and declared to be, as follows: Beginning at a point on the Bay shore at the mouth of Broadkill River and following said river to a point where the Lewes River intersects; thence following said Lewes River until it reaches the mouth of Canary Creek; thence following said Canary Creek until it intersects a line drawn from Greenhill Lighthouse to a point on the Southwest side of Block House Pond and Market Street; thence following said Market Street until it strikes a division line between the lands of Sarah C. Wright and Eliza Metcalf; thence following said division line to South Street; thence running the same course between the lands of Dr. Hiram R. Burton and Virginia L. Mustard across King Street to a point in George Robinson's field about five hundred feet from King Street; thence in an Easterly direction until it strikes the division line between the lands of Robert Arnell and lands formerly of Dr. David Hall; thence following said course until it strikes a ditch through Miss McIlvaine's lands, following said ditch to Lewes Creek; thence following said Creek in a Southeasterly direction until it strikes the former corporation line; thence following said line to the Bay shore; thence following the low water mark along said Bay Shore to the place of Beginning, together with the following described tracts of land which were annexed to the corporate limits of The Town of Lewes:

Parcel No. 1. Situate, lying and being Southeast of and adjacent to a present Southeast boundary line of the Town of Lewes described as: "a ditch through Miss McIlvaine's land" (See Laws of Delaware, Vol. No. 22, Chapter 199, Sec. 1, and Vol. No. 43, Chapter 170, Sec. 2, page 723). Beginning for said Parcel No. 1 at a point in the present Town line described as: "a ditch through Miss McIlvaine's land" where a ditch flowing Northeast out of White's Pond, and a ditch flowing North through lands now or formerly of Charles White, intersect and merge with said ditch flowing through lands formerly of Miss McIlvaine, now lands of Fish Products Company. Said beginning point being also a corner for lands of Fish Products Company (formerly lands of Edith P. Melson) and lands now or formerly of Charles White. Thence from said beginning point, and with the division line between lands of Fish Products Company, and land now or formerly of Charles White and with bearings being referred to the true meridian, S. 18° 37' E. 445.17 ft. to a stake; thence along line for lands of Fish Products Company and line for lands of Percy Schmierer N. 71° 48' E. 678.48 ft. to the Southwesterly side of Gills Neck Road; thence continuing same course N. 71° 48' E. 30 ft. further to the Northeasterly side of said Gills Neck Road; thence along the Northeasterly side of said road S. 17° 00' E. 145.2 ft.; thence with a line through lands of Fish Products Company, it being also the original division line between lands formerly of Jacob A. Marshall, and lands formerly of Jane McIlvaine N. 87° 43' E. 594.0 ft; thence N. 79° 37' E. 49.5 ft.; thence N. 64° 07' E. 693 ft. or such distance as will reach the Southwest bank of the Lewes and Rehoboth Canal; thence along the Southerly bank of said Canal in a Northwesterly direction such a distance as will reach the mouth of the aforesaid ditch running through lands formerly of Jane McIlvaine, now lands of Fish Products Company, the mouth of said ditch being located at the bend in the Gills Neck Road, and is N.

17° 00' W. 1005.8 ft. from the end of the herein described second course; thence up said ditch, which is a present boundary line for the Town of Lewes, in a Southwesterly direction such a distance as will reach the place of beginning. Containing 34.6 acres more or less. A plot entitled Plot of the Lands in the Office of the Recorder of Deeds in and for Sussex County at Georgetown, Delaware in Plot Record No. 1, page 32.

Parcel No. 2. Situate lying and being adjacent to and West of the present West boundary lines of the Town of Lewes; as set out in Laws of Delaware, Vol. No. 22, Chapter 199, Sec. 1, and Vol. No. 43, Chapter 170, Sec. 2, page 723. Beginning for said parcel No. 2 at a point in the Northwest side of Market Street and on the Southwest side of Block House Pond in said Town of Lewes, Delaware. Said beginning point being the end of the third course; as described in Laws of Delaware, Vol. No. 22, Chapter 199, Sec. 1, and the end of what is intended to be the fourth course in the description of the present Town boundary lines found in Laws of Delaware, Vol. No. 43, Chapter 170, Sec. 2, page 723, but said fourth course being omitted therein. Thence from said beginning point, and with the Northwesterly side of Market Street, S. 43' 45' W. (as surveyed in 1874 with bearing being referred to the Magnetic meridian of that date) such a distance as will reach the Southwesterly side of the street or road which lies between land of the Lewes Special School District and lands of the United States Government; known as Fort Miles Hospital Area; thence along the Southwesterly side of said unnamed street, or road in a Northwesterly direction such a distance as will reach the Southeasterly side of Stanley Miller's Subdivision known as "Highland Acres"; thence along the Southeasterly line of said Subdivision, "Highland Acres" and line for lands of the United States Government or Fort Miles Hospital Area, and in accord with a survey dated February 13, 1951, with bearings referred to the Magnetic Meridian of that date S. 47° 58' W. 274.69 ft. to a concrete marker; thence S. 46° 03' W. 575.71 ft. to a concrete marker; thence along the Southwesterly side of said Subdivision, and line for lands of Lewes Graves (formerly lands of Delaware, Maryland and Virginia Railroad Company) N. 49° 20' W. 743.76 ft. to a corner fence post, thence along the Northwesterly side of said Subdivision, and line for lands of William Russell N. 46° 00' E. such a distance as will reach the aforesaid fourth line of the Town's present limits, namely, a line drawn from Greenhill Light House to a point on Southwest side of Block House Pond and Market Street; thence following said line in a Southeasterly direction to the place of beginning let the area be what it may. In the event it should be determined that there still remains some land in the possession of the Lewes Special School District which lies beyond the Corporate limits, then such additional lines as found necessary to include such lands of the Lewes Special School District shall be included, and become a part of this description. A plot of aforesaid Subdivision "Highland Acres" is now of record in the Recorder of Deeds Office in and for Sussex County, at Georgetown, Delaware, in Plot Record No. 2, page 32.

Parcel No. 3. Beginning at a point, said point being at the intersection of lands of Highland Heights, Inc., the corporate limits of The Town of Lewes and lands of Lewes Special School District; thence South 43 degrees, 31 minutes, 47 seconds West, such distance as is required to reach a corner for these lands, lands now or formerly of William Russell Heirs and Highland Acres Subdivision; thence along and with the line of lands now or formerly of William Russell Heirs, North 47 degrees, 47 minutes and 8 seconds a distance of 497.56 feet to a point, said point being a corner for these lands, lands now or formerly of William Russell Heirs and lands now or formerly of John S. Wingate; thence by and with the division line between these lands and lands now or formerly of John S. Wingate North 43 degrees, 44 minutes, 45 seconds East such distance as is required to reach the present corporate limits of The Town of Lewes; thence in a southeasterly direction by and with the present corporate limits of The Town of Lewes, home to the place of beginning containing approximately seven (7) acres of land more or less.

Parcel No. 4. Reference is made to an Act to Reincorporate the City of Lewes, 125th General Assembly, House Bill 237, Approved June 19, 1969, and in particular to Section 2, entitled "Territory and Limits."

It is to be noted that the present corporate limits of The City of Lewes crosses Kings Street (Kings Highway) on a line established by the division line between the lands of Hiram R. Burton and Virginia L. Mustard (Oscar Warrington Farm) and extend to a point about 500 feet from King Street in George Robinsons Field (Now Lowder W. Mitchell). Using this point as reference and continuing north eastward along and with the present corporate limits of The City of Lewes for a distance of about 100 feet to arrive at a point where the present corporate limit line of The City of Lewes intersects the south westerly property line of the W m. E. Walsh Farm. This point established as indicated as the beginning point for the lands proposed for annexation as hereinafter defined.

From this point beginning and proceeding north eastward along and with the present corporate limit line of The City of Lewes thru the lands of the Walsh farm to a point where the present corporate limit line of The City of Lewes crosses the south westerly boundary line of the land known as the Williams Tract (Now lands of Otis H. Smith), thence along and with the property line between the Wm. E. Walsh Farm and the Williams Tract S 49° 18' 20" E for a distance of 640 feet more or less to a point on the property line of the Williams Tract and a common corner for the Wm. E. Walsh Farm and the lands now or formerly of J. G. Townsend, Jr. and Co., thence S 36° 56' 40" W along and with the lands of J. G. Townsend, Jr. and Co. for a distance of 689.00 feet to a corner, thence S 53° 03' 20" E along and with the lands of J. G. Townsend, Jr. and Co. for a distance of 610.00 feet to a corner, thence S 38° 18' 20" W, 532.42 feet along and with the lands of J. S. Townsend, Jr. and Co. to a corner, thence N 49° 41' 32" W along and with the lands of J. G. Townsend, Jr. for a distance of 317.83 feet to

a line concrete post, thence continuing the same course along and with the lands of Lowder W. Mitchell for a distance of 1,175 feet more or less to arrive at the point of beginning, containing 28 ½ acres more or less.

Parcel No. 5. Harborview subdivision.

Parcel No. 6. All that certain tract, piece and parcel of land, situate, lying and being in Lewes and Rehoboth Hundred, Sussex County, Delaware, and being more particularly described as follows: Beginning at a point which is in the present southeastern boundary line of The City of Lewes and in the eastern right-of-way line of Kings Highway; thence along and with the eastern right-of-way line of Kings Highway south 21 degrees 28 minutes 28 seconds west, a distance of 1,496.76 feet to a point in the eastern right-of-way line of Kings Highway; thence turning and crossing Kings Highway north 68 degrees 31 minutes 31 seconds west a distance of 60 feet to a concrete monument marking the western right-of-way line of Kings Highway and the southerly property line of Jack Lingo Realty; thence along and with the southerly property line of Jack Lingo Realty and the lands of Lewes Universal Enterprises north 47 degrees 47 minutes 42 seconds west a distance of 1,904.40 feet to a concrete monument marking the southwesterly corner of Lewes Universal Enterprises; thence north 39 degrees 22 minutes 08 seconds east a distance of 456.60 feet to a concrete monument marking another corner of lands of Lewes Universal Enterprises; thence north 50 degrees 37 minutes 52 seconds west a distance of 150 feet to the easterly right-of-way line of Savannah Road; thence along and with the easterly right-of-way line of Savannah Road north 39 degrees 22 minutes 08 seconds east a distance of 100.50 feet to a concrete monument, said concrete monument marking a corner for these lands and lands now or formerly of Oscar Warrington; thence along and with the division line between the land now or formerly of Oscar Warrington and the lands now or formerly of Lewes Universal Enterprises, south 47 degrees 42 minutes east a distance of 1,874 feet to a concrete monument, located in the westerly right-of-way line of Kings Highway and marking a corner for the lands now or formerly of Oscar Warrington, lands now or formerly of Lewes Universal Enterprises; thence along and with the westerly right-of-way line of Kings Highway north 21 degrees 28 minutes 28 seconds east a distance of 952.27 feet to a point in the southeasterly boundary line of The City of Lewes; thence along and with the present southeasterly corporate limits of The City of Lewes south 47 degrees 56 minutes 38 seconds east a distance of 64.08 feet, home to the place of beginning, containing 25.274 acres of land, be the same more or less.

Parcel No. 7. All that certain tract, piece and parcel of land, situate, lying and being in Lewes and Rehoboth Hundred, Sussex County, Delaware, and being more particularly described as follows: Beginning at a point in the westerly corporate limit line of The City of Lewes, said point marking a corner for the lands herein described and lands of Hornkill Avenue Development; thence along and with the division line between these lands and lands of Hornkill Avenue Development south 39 degrees 45 minutes 54 seconds west a distance of 543.75 feet to a point; thence south 53 degrees 27 minutes 46 seconds east a distance of 427.64 feet; thence south 39 degrees 54 minutes 48 seconds west a distance of 829.01 feet to a point; thence south 51 degrees 30 minutes 27 seconds east a distance of 923.40 feet to a point in the center line of New Road (County Road No. 266); thence along and with the center line of New Road south 39 degrees 58 minutes 40 seconds west a distance of 367.34 feet; thence continuing along and with the center line of New Road south 39 degrees 36 minutes 38 seconds west a distance of 412.62 feet to a point, said point marking a corner for these lands and lands now or formerly of Samuel C. Russell; thence along and with the division line between these lands and lands now or formerly of Samuel C. Russell north 49 degrees 27 minutes 36 seconds west a distance of 1,104.04 feet to a point, said point marking a corner for these lands and lands now or formerly of Samuel C. Russell; thence along and with the division line between these lands and lands now or formerly of Samuel C. Russell south 40 degrees 00 minutes 00 seconds west a distance of 2,101.87 feet to a point in line of Canary Creek, and marking a corner for these lands and lands now or formerly of Samuel C. Russell; thence following the meanderings of Canary Creek and with a survey tie line of north 63 degrees 29 minutes 14 seconds west a distance of 967.24 feet to a point; thence north 39 degrees 30 minutes 00 seconds east a distance of 2,433.78 feet to a point; thence north 47 degrees 11 minutes 05 seconds west a distance of 856.60 feet to a point; thence north 66 degrees 48 minutes 05 seconds west a distance of 380.79 feet to a point; thence north 72 degrees 53 minutes 50 seconds west a distance of 136.02 feet to a point; thence north 61 degrees 20 minutes 52 seconds west a distance of 1,753.67 feet to a point in line of Canary Creek; thence following the meanderings of Canary Creek with a survey tie line of north 44 degrees 02 minutes 07 seconds east a distance of 1,704.51 feet to a point; thence continuing along and with the meanderings of Canary Creek with a survey tie line of north 40 degrees 09 minutes 17 seconds east a distance of 1,431.25 feet to a point in the westerly corporate limit line of The City of Lewes; thence along and with the present westerly corporate limit line of The City of Lewes in a southerly direction such distance as is required to reach the point and place of beginning, containing 280 acres of land, be the same more or less.

Parcel No. 8. All that certain lot, piece or parcel of land situated adjacent to the City of Lewes, Lewes and Rehoboth Hundred, Sussex County, Delaware, being all of Parcel B as shown on a plan prepared by Edward H. Richardson Associates, Inc., entitled "Perimeter Survey of Lands Prepared for Bundensen-Paul, Incorporated," dated 8-2-82, also being more particularly referred to on a plan entitled "Annexation Plan of Lands Prepared for Bundensen-Paul, Incorporated," also prepared by Richardson Associates, Inc., dated 8-2-82, said lot lying southwesterly of but not adjacent to Pilottown Road (35' wide), and being bounded as follows: On the north by lands now or late of Pilottown Park (Tract No.

1); on the east by Parcel A (as shown on the above noted plan), lands now or late of Rollins Investment Co., lands known as "Highland Heights," as shown on a survey performed by Edward H. Richardson Associates, Inc., dated March 9, 1966, entitled "Subdivision proposal No. 2-A"; on the south by Highland Acres Subdivision as recorded in Plot Book No. 2, page No. 32, lands now or late of Maryland, Delaware, Virginia Railway, and lands of Sweigert, Fidler, Burton & Hocker; on the west by Swanendael subdivision as recorded in Plot Book No. 8, page No. 724, lands now or late of Martin A. Wells, etux, and lands of 7-11 Dairy Markets, Inc., being more particularly described as follows: Beginning at a point in line of lands now or late of Pilottown Park, said point also being in line of the existing City of Lewes corporate limits and located S 42° 24' 26.5" E 667.91' from a found railroad spike in the physical center line of New Road, said Spike as shown on a plan prepared by Mann Associates, Inc., entitled "City Line and Hornkill Avenue Development," dated 11-19-80, said point also being the following five (5) courses and distances from the intersection of the southwesterly side of Pilottown Road (35' wide) with the southeasterly side of New Road (35' wide), said intersection being a found iron pipe:

1. S 56° 44' 55" E 595.04', measured along the southwesterly side of Pilottown Road, to a point, a found iron pipe, a corner for lands now or late of Alice Russell Smith and the said Parcel A, thence with line of Parcel A;
2. S 36° 25' 54" W 149.75' to a point, a found iron pipe, thence continuing with the same;
3. S 56° 10' 53" E 10.00' to a point, a found iron pipe, thence continuing with the same;
4. S 37° 26' 49" W 785.47' to a point, a concrete monument, said line entering a ditch at 778'±, thence generally with the center of the said ditch along Parcel A;
5. S 39° 05' 15" W 626.64' to a point, the point of beginning;

Thence from the said point of beginning the following eleven (11) courses and distances:

1. S 42° 24' 26.5" E 501.01', measured along the existing City of Lewes corporate limits, to a point in line of lands of the said Rollins Investment Co., thence with the same;
2. S 38° 47' 55" W 817.78' to a point, a found iron pipe, thence continuing with the same and generally with a ditch;
3. S 49° 16' 18" E 539.16' to a point, a found iron pipe, thence continuing with the same;
4. N 46° 58' 09" E 70.30' to a point, a found concrete monument, thence with line of the said Highland Heights and generally continuing with the said ditch;
5. S 52° 40' 40" E 490.62', passing over a found iron pipe at 489.50', to a point, set concrete monument in line of the said Highland Acres, thence leaving the said ditch a continuing in part with line of Highland Acres, line of the said railway, and line of Sweigert, Fidler, Burton & Hocker;
6. S 38° 48' 01" W 1711.91', passing over found iron pipes at 33.67' and 933.83' and a set concrete monument at 1411.91', to a point in the center line of a branch of Canary Creek, thence with the said center line and a long line of Swanendael Subdivision;
7. N 69° 50' 14" W 1135.75' to a point, thence continuing with the same;
8. N 22° 40' 53" E 20.00' to a point, thence continuing with the said Branch center line and in part with line of the said Wells Lands, and also lands of 7-11 Dairy Markets, Inc.;
9. N 86° 55' 23" W 440.23' to a point, thence continuing with the said branch and Dairy Market Lands;
10. N 60° 13' 40" W 111.46' to a point, a corner for lands of the said Pilottown Park, thence with the same, in part generally with the center of a ditch;
11. N. 39° 04' 15" E 3160.48', passing over a set concrete monument at 300' and entering the said ditch at 1,866'±, to a point, the point of beginning.

Containing within said metes and bounds 78.5889± acres.

Track No. 1. All that certain tract, piece or parcel of land situate, lying and being partly in the Town of Lewes and partly outside of the boundaries of the Town of Lewes, Lewes and Rehoboth Hundred, Sussex County, Delaware, adjoining the Lewes and Rehoboth Canal, lands now or formerly of a certain Booker, adjoining now or formerly of the Dunning heirs, adjoining the easterly side of the state highway leading from Lewes to Nassau commonly known as "New Road," adjoining lands now or formerly of Richard Derrickson, and adjoining the Canary Creek and lands now or formerly of Gladys R. Toms, more particularly described by a survey dated October 28, 1975, by Van Demark & Lynch, Inc., Registered Engineers and Surveyors, as follows: Beginning at a point which is 1,404.76 feet from the southeasterly point of intersection of New Road formerly or also known as "Russell Avenue," said road having an existing right-of-way of thirty-five (35) feet, and Pilottown Road in the Town of Lewes, which point is also a mark for the division line between the Town of Lewes and county lands and located on the edge of the southerly right-of-way of New Road; thence south forty-two degrees (42°) twenty-four (24) minutes twenty-six (26) seconds east along the division between lands within the town limits of Lewes and lands outside the town limits for a distance of 650.24 feet to a point located in the center line of a certain ditch; thence south thirty-nine degrees (39°) four (4) minutes five (5) seconds west along and with the center line of said

ditch until said ditch comes to an end: thence continuing along the same course for a total distance of 3,159.94 feet to a point in the center line of Canary Creek; thence by and with the center line of Canary Creek north sixty degrees (60°) thirteen (13) minutes forty (40) seconds west for a distance of 646.90 feet to a point located on the southerly right-of-way of New Road which point is south sixty degrees (60°) thirteen (13) minutes forty (40) seconds east 17.64 feet from an existing nail found in the center line of the said New Road; thence by and with the southerly right-of-way of New Road north thirty-seven degrees (37°) four (4) minutes thirty-eight (38) seconds east for a distance of 919.47 feet to a set nail in said right-of-way; thence by and with the southerly right-of-way of said New Road north thirty-nine degrees (39°) twenty-eight (28) minutes twelve (12) seconds east for a distance of 805.60 feet to a set nail in the southerly right-of-way of said New Road; thence north thirty-nine degrees (39°) fifty-two (52) minutes fifty-three (53) seconds east for a distance of 1,082.78 feet to a set nail in the southerly right-of-way of said New Road; thence north thirty-nine degrees (39°) forty-three (43) minutes two (2) seconds east for a distance of 553.69 feet home to the point and place of beginning, being 49.21 acres of land, more or less.

Parcel No. 9. All that certain tract, piece and parcel of land, situate, lying and being contiguous to the present corporate limits of The City of Lewes, located in Lewes and Rehoboth Hundred, Sussex County, Delaware, and being more particularly described as follows: Beginning at a concrete monument located on the boundary line between these lands and other lands of the University of Delaware, said point being in the present corporate limits of The City of Lewes; thence along and with present corporate limits of the City of Lewes, said line marking division line between these lands and other lands of the University of Delaware, north forty-nine degrees (49°) twenty-seven (27) minutes thirty-six (36) seconds west a distance of 1,104.04 feet to a point, said point marking a corner for these lands and other lands of the University of Delaware; thence along and with the division line between these lands and other lands of the University of Delaware, south forty degrees (40°) zero (00) minutes zero (00) seconds west a distance of 1,580.38 feet to a point, said point marking a corner for these lands and being located in the center line of Canary Creek; thence in a southeasterly direction along with the center line of Canary Creek such distance as is required to reach a point, said point marking a corner for these lands and lands now or formerly of Samuel C. Russell; thence along and with the division line between these lands and lands now or formerly of Samuel C. Russell, north forty-two degrees (42°) fifty-nine (59) minutes twenty-two (22) seconds east a distance of 1,432.21 feet to an iron pipe, said iron pipe marking a corner for these lands and lands now or formerly of Samuel C. Russell; thence along and with the division line between these lands and lands now or formerly of Samuel C. Russell, south forty-nine degree (49°) twenty-seven (27) minutes thirty-six (36) seconds east a distance of three hundred (300) feet to a concrete monument, said concrete monument making a corner for these lands and lands now or formerly of Samuel C. Russell; thence north thirty-nine degrees (39°) fourteen (14) minutes thirty-two (32) seconds east a distance two hundred fifty (250) feet, home to the place of beginning, containing 29.336 acres of land, be the same more or less, as shown on a plot prepared by Vandemark & Lynch, Inc., dated September 23, 1992, and being the same lands conveyed to the University of Delaware by deed of Marine Program Associates, Inc., dated March 19, 1986, of record in the office of the Recorder of Deeds, in and for Sussex County, in Deed Book 1405 at Page 59.

Parcel No. 10. All that certain tract, piece and parcel of land, situate, lying and being in Lewes and Rehoboth Hundred, Sussex County, Delaware, adjoining the present corporate limits of The City of Lewes and being more particularly described as follows: Beginning at a point, said point marking for these lands and a corner for the present corporate limits of The City of Lewes and being in the northwestern right-of-way line of Kings Highway; thence along and with the northwestern right-of-way line of Kings Highway, south 29 degrees, 30 minutes west a distance of 10 feet to a concrete monument, said concrete monument marking a corner for these lands and lands now or formerly of Oscar H. Warrington, Jr. and Thelma M. Warrington, his wife; thence along and with the division line between these lands and lands now or formerly of Oscar H. Warrington, Jr., and Thelma M. Warrington, his wife, north 57 degrees, 51 minutes, 56 seconds west a distance of 127.04 feet to an iron pipe; thence south 32 degrees 08 minutes 04 seconds west a distance of 25 feet to an iron pipe; thence north 52 degrees, 42 minutes 35 seconds west a distance of 209 feet to an iron pipe; thence north 28 degrees, 16 minutes, 59 seconds east a distance of 121.61 feet to an iron pipe; said iron pipe being located in the present corporate limits of The City of Lewes; thence along and with the present corporate limits of The City of Lewes, south 40 degrees, 49 minutes, 16 seconds east a distance of 358.65 feet, home to the place of beginning, containing 24,256 square feet of land, be the same more or less as shown on a survey prepared by Wingate & Eschenbach dated August 24, 1993.

Parcel No. 11. All that certain lot, piece or parcel of land, with improvements thereon erected, situated in the 10th election district, Sussex County and State of Delaware, lying on the southeast side of Savannah Road (US Route 9), being bounded on the northeast in part by lands now or formerly of Sue Ann Warrington, lands now or formerly of Oscar and Mary Warrington, III and other lands now or formerly of Oscar H. and Thelma Warrington, Jr., on the southeast by Kings Highway (County Road 268), on the southwest in part by lands now or formerly of Arlington Heights Prop., lands now or formerly of Prime Inc., lands now or formerly of McMahon Bros. and lands now or formerly of Henlopen Gardens, on the northwest in part by Savannah Road (US Route 9) and lands now or formerly of Sue Ann Warrington and being more particularly described as follows, to-wit: Beginning at a found iron rod in the southeast right-of-way line of Savannah Road (US Route

9) at a corner for this parcel and lands now or formerly of Henlopen Gardens, said point of beginning also being a corner for the city limits boundary of the City of Lewes; thence running from said point of beginning with the southeast right-of-way line of Savannah Road (US Route 9), North 46 degrees 01 minutes 06 seconds East, a distance of 268.90 feet to a point at a corner for this parcel and lands now or formerly of Sue Ann Warrington on the following two (2) courses: (1) South 44 degrees 14 minutes 16 seconds East, a distance of 272.24 feet to a found iron pipe; (2) North 48 degrees 41 minutes 05 seconds East, a distance of 109.14 feet to a found iron pipe at a corner for this parcel and lands now or formerly of Oscar and Mary Warrington, III; thence turning and running with lands now or formerly of Oscar and Mary Warrington, III, South 44 degrees 18 minutes 16 seconds East a distance of 195.25 feet to a point at a corner for this parcel and other lands now or formerly of Oscar H. and Thelma Warrington, Jr.; thence turning and running with other lands now or formerly of Oscar H. and Thelma Warrington, Jr. on the following three (3) courses: (1) South 41 degrees 46 minutes 51 seconds East, a distance of 787.25 feet to a set iron rod; (2) South 48 degrees 17 minutes 06 seconds East, a distance of 154.61 feet to a found iron pipe; (3) South 58 degrees 51 minutes 54 seconds East, a distance of 293.70 feet to a found iron pipe in the northwest right-of-way line of Kings Highway (County Road 268); thence turning and running with the northwest right-of-way line of Kings Highway (County Road 268), South 27 degrees 36 minutes 07 seconds West, a distance of 552.28 feet to a set iron rod at a corner for this parcel and lands now or formerly of Arlington Heights Property, said point also being a corner for the city limits boundary of the City of Lewes; thence turning and running in part with lands now or formerly of Arlington heights Prop., lands now or formerly of Prime Inc., lands now or formerly of McMahon Bros., lands now or formerly of Henlopen Gardens and the Lewes city limits boundary North 41 degrees 18 minutes 47 seconds West, a distance of 1873.85 feet to the point and place of beginning and containing 16.45 acres of land, be the same more or less.

Parcel No. 12. Certain lands known as "Savannah Place", a development contiguous to the present southerly limits of The City of Lewes, Lots known as numbers 1-38, and the street known as "Savannah Circle", all located on the west side of Savannah Road (State Road 18/U.S. Route 9) and the north side of Donovan Road (County Road 263), as shown on Revised Record Subdivision Plan Savannah Place, dated May 12, 1983, and recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Plot Book 36, page 255, Tax Map numbers 3-35-8.14-50-88, 22.74 acres, more or less.

Parcel No. 13. Certain lands known as "Highland Acres" and a portion of Sussex Drive, beginning at a concrete monument, said monument being the westerly point of the Sussex Drive right-of-way at the entrance to Highland Acres; thence 465.00 feet in a S 48 degrees 52 minutes 40 seconds E direction to a point on the Sussex Drive right-of-way at the northeast corner of Tax Map 335-8.11 Parcel 29; thence 50.00 feet in a N 41 degrees 7 minutes 20 seconds E direction to a point on the Sussex Drive right-of-way; thence 457.17 feet in a N 48 degrees 52 minutes 40 seconds W direction to a point on the Sussex Drive right-of-way at the entrance to Highland Acres; thence 826.81 feet in a N 44 degrees 52 minutes 00 seconds E direction to a point at the southeast corner of the Highland Acres Subdivision; thence 743.40 feet in a N 40 degrees 16 minutes 00 seconds W direction to point at the northeast corner of the Highland Acres Subdivision; thence 2183.85 feet +/- in a S 46 degrees 00 minutes 00 seconds W direction to a point at the northwest corner of the Highland Acres Subdivision; thence 248 feet +/- in a southeast direction along the approximate centerline of a Branch of Canary Creek to a point at the southeast corner of Sussex County Tax Map No. 335-8.10 Parcel 51; thence 101.52 feet +/- in an approximate S 57 degrees 50 minutes 13 seconds E direction along the approximate centerline of a Branch of Canary Creek to a point at the southeast corner of Sussex County Tax Map No. 335-8.10 Parcel 14; thence 107.02 feet in a S 23 degrees 04 minutes 55 seconds E direction along the tie-line connecting the southwest and southeast corners of Sussex County Tax Map No. 335-8,10 Parcel 13 near the centerline of a Branch of Canary Creek to a point at the southeast corner of Parcel 13; thence 332.92 feet in a S 18 degrees 16 minutes 56 seconds E direction along the centerline of a Branch of Canary Creek to a point at the southwest corner of the Highland Acres Subdivision; thence 1125.42 feet +/- in a N 46 degrees 03 minutes 00 seconds E direction to a point; thence 274.69 feet in a N 47 degrees 58 minutes 00 seconds E direction to a concrete monument and the place of beginning. 80 Del. Laws, c. 142

Annexation of Territory

Section 3.

In the event it becomes feasible and necessary for the future of the City of Lewes to enlarge its then existing limits and territory, such annexation accomplished with the following procedure shall be lawful:

- (a) If all the property owners of a territory contiguous to the then existing corporate limits and territory of The City of Lewes, by written Petition, with the signature of each such Petitioner duly acknowledged, shall request the City Council to annex that certain territory in which they own property, the Mayor of The City of Lewes shall appoint a committee composed not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. The Petition presented to the City Council shall include the description

of the territory requested to be annexed and the reasons for 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 City Council of The City of Lewes. The Report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City 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 City and to the territory proposed to be annexed, the City Council may then pass a second Resolution annexing such territory to The City of Lewes. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the members of the City Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the City or to the territory proposed to be annexed, the procedures to be filed shall be the same as hereinafter provided as if the annexation were proposed by 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 City of Lewes.

- (b) If five (5) or more, but not all the property owners resident in a territory contiguous to the then limits and territory of The City of Lewes, by written Petition with the signature of each such Petitioner duly acknowledged, shall request the City Council to annex that certain territory in which they reside and own property, the Mayor of The City of Lewes shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. The petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City 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 the elected members of said City Council, be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of The City of Lewes.
- (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 City Council. The reports so submitted shall include the advantages and disadvantages of the proposed annexation both to the City and to the territory proposed to be annexed and shall contain the committee's recommendations 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 City and to the territory proposed to be annexed, within sixty (60) days after receiving the report, a second Resolution shall then be passed by the City Council proposing to the property owners and residents of both the city and the territory proposed to be annexed that the City 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 City or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the committee, the resolution proposing to the property owners and residents of both the city 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 City Council. If the resolution shall fail to receive the affirmative vote of two thirds (2/3) of the elected members of the City 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 City Council setting forth the above information shall be printed in a newspaper published in The City of Lewes at least one (1) week prior to the date set for the public hearing, or, if no newspaper is published in the City, publication shall be had in a newspaper having a general circulation both in the City and in the territory proposed to be annexed, or, at the discretion of the City Council, said resolution shall be posted in five (5) public places both in the City 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 may then be passed by a majority of the City 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 on the subject of the proposed annexation. The passage of this resolution shall ipso facto be considered the City Council's determination to proceed with the matter of the proposed annexation.
- (e) The notice of the time and place of holding the said special election shall be printed within thirty (30) days immediately preceding the date of the special election in at least two (2) issues of a newspaper published in the City, or, if no newspaper is published in the City, the notice may be printed within thirty (30) days immediately preceding the date of the special election in two (2) issues of a newspaper having a general

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circulation both in the city and in the territory proposed to be annexed, or, in the discretion of the City Council, said notice may be posted in five (5) places both in the City and in the territory proposed to be annexed, at least fifteen (15) days prior to the date of the special election.

- (f) At the Special Election every property owner, whether a natural or artificial person, including but not limited to partnership, trust, corporation, or limited liability company, both in The City of Lewes and in the territory proposed to be annexed, shall have one (1) vote. Every citizen of either The City of Lewes 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 (1) vote. In the event that a person owns property both in The City of Lewes 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 City of Lewes and in the territory proposed to be annexed, but does not reside in either place, he may vote only in The City of Lewes 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 City of Lewes in the case of property owners and citizens of the City and the books and records of the Board of Assessment of Sussex County in the case of property owners and residents of the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.
- (g) Any qualified voter unable to appear at the Special Election may cast an absentee ballot. The procedures for absentee voting shall conform to the applicable provisions of Title 15 of the Delaware Code, Chapter 75, Subchapter V, established for absentee voting in annual municipal elections. 80 Del. Laws, c. 142
- (h) The City Council shall determine by Resolution whether paper ballots or voting machines are to be used at the said Special Election. In any event, the form of ballot shall be as follows:

- For the proposed annexation.
- Against the proposed annexation.

PLEASE MARK YOUR PREFERENCE

- (i) The Mayor shall appoint three (3) persons to act as a Board of Special Election, at least one (1) of whom must reside and be the owner or leaseholder, as defined herein, of property in the City, and at least one (1) of whom must reside and be the owner or leaseholder, as defined herein, of property in the territory proposed to be annexed. One (1) of said persons so appointed shall be designated the presiding officer. Voting shall be conducted in the City Hall and the Board of Election shall have available, clearly marked, two (2) ballot boxes. All ballots cast by those persons, partnerships or corporations authorized to vote as residents, property owners or leaseholders, as defined herein, in the territory proposed to be annexed shall be deposited in one (1) such ballot box, and all ballots cast by those persons, partnerships, or corporations who are authorized to vote as residents or property owners of the City shall be deposited in the other such ballot box. The polling places shall be open from 12:00 Noon, prevailing time, until 7:00 in the evening, prevailing time, on the date set for the Special Election.
- (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 City Council. Said Certificate shall be filed with the papers of the Council.
- (k) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both 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 said Special Election. If a favorable vote for annexation shall have been cast, the City Council of The City of Lewes shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, in Georgetown, Delaware, but in no event shall said recordation be completed more than ninety (90) days following the favorable referendum. The territory considered for annexation shall be considered to be a part of The City of Lewes 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 considered to be a part of The City of Lewes 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) Additional Annexation Procedures.

1. If the territory proposed to be annexed includes only territory which is exempt from taxation, which is owned by the State of Delaware, or which is not assessed on the books of the Board of Assessment of Sussex County, no election shall be necessary and the City Council may proceed to annex such territory by (1) receiving a certified copy of a Resolution requesting such annexation if such property is owned by a corporation; (2) by a written Petition with the signature of each such Petitioner duly acknowledged if such property is owned by an individual, requesting the City Council to annex that certain territory in which they own property; or (3) by Resolution of the City Council.
 2. The certified copy of the Resolution or the Petition or the Resolution of the City Council shall include a description of the territory requested to be annexed, the zoning designation to be applied, and the reasons for the requested annexation.
 3. Upon receipt of the certified copy of the Resolution or the Petition or the Resolution of the City Council, the Mayor shall, by Resolution, appoint a committee composed of not less than three (3) of the members of the Council to investigate the possibility of annexation.
 4. 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 City Council. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City 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 therefore as well as its recommendation for zoning.
 5. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the City and to the territory proposed to be annexed, the City Council may then pass a second Resolution fixing a time and place for a public hearing on the subject of the proposed zoning to be applied to the property proposed for annexation. Such Resolution, to be effective, shall be passed by the affirmative vote of a majority of all the members of the City Council.
 6. Following the public hearing, the City Council may then pass a third Resolution annexing such territory to the City and designating the zoning district of said territory. Such Resolution shall be passed by the affirmative vote of a majority of all the members of City Council.
 7. 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.
 8. If the Resolution receives the required number of votes, the City Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall 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 City from the time of recordation. The failure of the City 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.
- 76 Del. Laws, c. 256

(m) Annexation Agreement.

1. Notwithstanding any provision herein to the contrary, where, pursuant to this Section 3 of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this Section 3 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure; that is, (1) the Resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement, shall briefly summarize its terms, and shall state that copies of the Agreement are available upon request at the City Hall; (2) if the results of the election are favorable to the proposed annexation as provided by

this Charter, the Resolution annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference; and the parties shall be bound to honor the provisions of such agreement unless released therefrom by the other party.

2. Provided, further, that no agreement made at the time of annexation under this Subsection "m" shall extend beyond seven (7) years from the date the property is annexed into the City; and such agreements shall be null and void, and unenforceable after the expiration of seven (7) years.
3. An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the Resolution ordering the special election pursuant to this Charter, but any material modification or amendment shall be deemed to be the withdrawal of the original petition and the filing of a new petition under this Charter. 76 Del. Laws, c. 256

(n) Highways, Streets, Roads and Alleys; Ponds, Canals, Streams, and Other Waters.

Contiguity with the City's existing corporate limits, or with other territory which is itself contiguous with the City's existing corporate limits, shall not be deemed interrupted by the existence of any highway, street, road, alley, pond, canal, stream, or other body of water which passes through, or lies within the territory to be annexed. 76 Del. Laws, c. 256

(o) Limitations.

No action contesting the annexation of any territory under this section shall be brought after the expiration of sixty (60) days from the publication of a notice in at least two (2) newspapers, both of general circulation in the City and in the territory annexed, which notice shall contain the following information:

1. Notice that the City has annexed such territory and a description thereof.
2. Notice that any person or other legal entity desiring to challenge such annexation must bring his or her or its action within sixty (60) days from the date of publication of such notice or forever be barred from doing so. 69 Del. Laws, c. 97; 72 Del. Laws, c. 175; 76 Del. Laws, c. 256;

Structure of Government

Section 4.

- (a) The government of the City and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in the Mayor and City Council. The term of the Mayor shall be a period of three (3) years commencing at the Annual Meeting of the City Council following his or her election and continuing until his or her successor is duly elected and qualified. 80 Del. Laws, c. 142
- (b) The City Council shall be composed of five (5) members, four (4) of whom shall be known as Council Persons, and one of whom shall be the Mayor; each of the Council Person's and the Mayor's terms shall be for a period of three (3) years commencing at the annual meeting of the City Council following his or her election and continuing until his or her successor is duly elected and qualified, except that the two Council Persons elected at the 2016 Annual Municipal Election shall serve for a term of two (2) years. 80 Del. Laws, c. 142

The Mayor and members of Council shall be entitled to vote in all matters. 72 Del. Laws, c. 175

Qualifications for Mayor and City Councilperson

Section 5.

The qualifications for Mayor and for City Council Person at the time of this election shall be as follows:

- (a) A bona fide citizen of the United States and of the State of Delaware and a resident of The City of Lewes for at least one (1) year preceding the date of the annual election. 76 Del. Laws, c. 256
- (b) At least Twenty-one (21) years of age; and
67 Del. Laws, c. 34
58 Del. Laws, c. 590
- (c) Shall not have been convicted of a felony.
76 Del. Laws, c. 256
- (d) Each of the qualifications for the Mayor and for the City Council Persons shall be continuing qualifications to hold office, and the failure of either the Mayor or any of the City Council Persons to have any of the

qualifications required by this Section during his term of office shall create a vacancy in the office. 69 Del. Laws, c. 97; 76 Del. Laws, c. 256;

Method of Making Nominations for Mayor and City Councilperson

Section 6.

Each candidate for Mayor and City Council Person shall be nominated as follows:

- (a) Each candidate shall notify the City Manager in writing of his candidacy for the office of either Mayor or City Council Person, or five (5) or more persons qualified to vote in the Annual Election may file the name of the candidate for the office of Mayor or City Council Person with the City Manager, provided that the candidate endorses his written consent thereon.
- (b) All such notifications of candidacy shall be filed at the office of the City Manager during the regular business hours of the City not earlier than the opening of business on March 1 and prior to 4:30 p.m. prevailing time on the first Thursday in April and thereon, it shall be the duty of the City Manager to deliver all notifications of candidacy or nominations for candidacy to the City Council at the regular meeting of the City Council in April of each year at which time the City Council shall sit in open meeting to hear the recommendations of the City Manager concerning the qualifications of each candidate. The City Council shall act upon the recommendation of the City Manager concerning each candidate. The Mayor and City Council, by a majority vote of its disinterested members, shall be the sole and final judge of the qualifications of its members and shall interpret and apply the standards set in this Charter. 76 Del. Laws, c. 256; 80 Del. Laws, c. 142;
- (c) In the event that the City Manager is unable to act because of illness, absence, or for any other reason whatsoever, the names of all candidates shall be filed with the Deputy Mayor of the City who shall thereupon perform the duties required of the City Manager in subsection (b) of this Section.
- (d) The procedures enacted by the General Assembly as Subchapter IV, Municipal Elections Except for the City of Wilmington and Subchapter V, Absentee Voting in Municipal Elections Except for the City of Wilmington, Chapter 75, Title 15, **Del. C.**, shall receive compliance and are included and incorporated herein by reference. 69 Del. Laws, c. 97; 76 Del. Laws, c. 256;

Manner of Holding Annual Municipal Elections

Section 7.

The procedure for holding the Annual Municipal Election shall be as follows:

- (a) The Annual Municipal Election shall be held at the City Hall in The City of Lewes on the second Saturday in May of each and every year from 8:00 in the morning, prevailing time, until 6:00 in the evening, prevailing time, due notices of which shall be given in compliance with the applicable provisions of 15 **Del. C.** §7501, *et seq.* 76 Del. Laws, c. 256
- (b) The four offices of Council Person of Lewes and the office of Mayor of Lewes shall be elective. The four offices of Council Person of Lewes shall be for a term of three (3) years, except that the two Council Persons elected at the 2016 Annual Municipal Election shall serve for a term of two (2) years. The office of Mayor of Lewes shall be for a term of three (3) years. 80 Del. Laws, c. 142
- (c) The Annual Municipal Election shall be conducted by a Board of Election consisting of an Inspector and two (2) Judges together with such alternates as are determined by the Mayor to be necessary, all of whom shall be appointed by the Mayor with the concurrence of a majority of the members of the City Council no later than March 1 of each year. The Inspector, Judges, and alternates shall be registered voters in the City. The Inspector, Judges, and alternates shall not be an elected official or an immediate family member of an elected official as defined in 15 **Del. C.** §7551(b). 76 Del. Laws, c. 256
- (d) At such Annual Municipal Election, every person, male or female, who shall have attained the age of eighteen (18) years on the date of the Annual Municipal Election and who shall be a citizen of the United States and a citizen of The City of Lewes shall have one (1) vote, provided, that he or she is registered on the Books of Registered Voters of The City of Lewes. For the purposes of this Section, a citizen of The City of Lewes shall be deemed to include any person who is a qualified voter of the State of Delaware, and is a bona fide resident of the City of Lewes. The City Council of The City of Lewes shall provide two (2) registers to be known as the "Books of Registered Voters" which are to be kept at the office of the City Manager. The Books of Registered Voters shall contain the following information for each registrant: the names of the registered voters arranged

in alphabetical order, the addresses of the voters, the proven age of the voters, the dates the registrants became citizens of the United States, the date that the registrants became residents of The City of Lewes and any other pertinent information. No person shall be registered upon the Books of Registered Voters unless he will have acquired the qualifications to vote in the Annual Municipal Election for the year in which he registers. A person shall be required to register only one (1) time; provided, however, that if a registered voter fails to vote in two (2) consecutive annual municipal elections in which there is a contest for any office, his name shall be removed from the Books of Registered Voters and notice sent to said registered voter at his last known address by registered mail with return receipt requested advising that his name has been removed from the Books of Registered Voters and that it will be necessary to register again in order to vote in the Annual Municipal Election. A person may register at the office of the City Manager during the regular business hours of such office until the close of business of such office on the 15th day prior to the date of the Annual Municipal Election by completing such forms as may be provided by the City. The City Council may provide by resolution for the Office of the City Manager to be open on one (1) Saturday within the thirty-day period immediately preceding the date of the Annual Municipal Election for the purpose of permitting persons to register to vote in such Annual Municipal Election 74 Del. Laws, c. 206; 76 Del. Laws, c. 256; 76 Del. Laws, c. 256, § 1; 78 Del. Laws, c. 344, §1;

- (e) The City Council of The City of Lewes may, by ordinance, provide for any qualified registered voter to cast an absentee ballot if such person is unable to appear and cast his or her ballot.
- (f) In the event that no person files or is nominated for each office for which an election is to be held within the time set forth in Section 6 of this Charter, the incumbent shall be deemed to be re-elected for a full term and it shall not be necessary to hold an election.
- (g) In the event that only one (1) person files or is nominated for each office for which an election is to be held within the time set forth in Section 6 of this Charter, the person who files or who is nominated shall be deemed to be elected for a full term and it shall not be necessary to have an election.
- (h) Voting machines shall be utilized during Annual Municipal Elections in compliance with the applicable provisions of 15 *Del. C.* §7501, et seq. 76 Del. Laws, c. 256
- (i) All municipal elections of the City of Lewes shall be conducted in conformity with Subchapter IV, Chapter 75 of Title 15 of the Delaware Code. 76 Del. Laws, c. 256
- (j) Upon the close of the election, the votes shall be read and counted publicly and in the case of an election of Council Persons, the persons having the highest number of votes shall be declared to be elected and in the case of the election of a Mayor, the person having the highest number of votes shall be declared to be elected. Such person shall continue in Office during the term for which they were elected or until their successors shall be duly elected or appointed and qualified. 76 Del. Laws, c. 256
- (k) The Board of Election shall enter in a book to be provided for that purpose minutes of the election containing the names of the persons so elected. They shall subscribe the same and shall make and deliver to the person elected certificates of their election. The book containing such minutes, the ballots and the list of those persons who voted shall be delivered to the City Manager who shall preserve the same and shall be evidence in any Court of law or equity. 76 Del. Laws, c. 256
- (l) If two (2) or more candidates for the office of Council Person or for Mayor shall receive an equal number of votes so that there shall not be an election of a Mayor or Council Person, the incumbent Mayor or Council Person shall continue in Office until the run-off election as herein provided is held. The Board of Election shall declare the election a tie and shall report that result to the Mayor and the City Council which shall, within twenty (20) days thereafter, hold a Special Election between those candidates where a tie resulted under the same rules as hereinbefore set forth. No person shall be permitted to register to vote following the Annual Municipal Election and before the Special Election in order to vote at the Special Election. 69 Del. Laws, c. 97; 76 Del. Laws, c. 256

Organization and Annual Meeting of Council

Section 8.

- (a) At any time after seven (7) days following the date of the election or runoff election, whichever is later, and prior to the first meeting following the Annual Municipal Election and before entering upon the duties of their respective offices, the Mayor-elect and the Council Persons-elect shall be sworn by a notary public to perform faithfully and impartially the duties of their respective offices with fidelity. At the first regular meeting following the annual election at the first regular meeting following the annual election, the Mayor and Council Persons

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 this Annual Meeting, held on the first regular meeting following the annual municipal election, the City Council shall organize and the Mayor, by and with the advice and consent of a majority of all of the members of the City Council, shall appoint a Deputy mayor, who shall hold office for the term of one (1) year or until his successor shall be duly elected. The Mayor, by and with the advice and consent of a majority of all the members of the City Council, shall appoint a Secretary from its own number to serve until the first regular meeting after the next annual municipal election. The Mayor, by and with the advice and consent of all the members of the City Council, shall appoint an Assistant Secretary, who may or may not be a member of the City Council, to serve as aforesaid, and such other officers and employees as may be determined to be necessary.
- (c) The Mayor and each other member of City Council shall receive as compensation such amount as shall be determined by the Mayor and City Council by ordinance or resolution for fulfilling his or her duties and for attendance at any regular meeting, special meeting, workshop meeting, public hearing or committee meeting. The time of payment shall be determined by the Mayor and City Council. 69 Del. Laws, c. 97; 72 Del. Laws, c. 13; 72 Del. Laws, c. 175; 74 Del. Laws, c. 2; 76 Del. Laws, c. 256;

Regular and Special Meetings

Section 9.

The City Council of The City of Lewes shall hold one meeting in each month on the second Monday of the month; provided, however, that the meeting held in the month of May shall be more than seven (7) days following the date of the Annual Municipal Election or runoff election whichever is later. If the date of the regular meeting shall be a legal holiday or a quorum cannot be obtained, the monthly meeting of the City Council of the City of Lewes shall be held on another day within the same month. Special meetings shall be called by the Secretary upon the written request of the Mayor of The City of Lewes, or upon the written request of any other two members of the City Council of The City of Lewes, 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 City 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 must be deposited in the United States mail in the main Post Office of The City of Lewes at least forty-eight (48) hours before the time of such special meeting; provided, that a written waiver of such notice, signed by the Mayor of The City of Lewes and by all members of the City Council prior to or immediately upon the convening of 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 such waiver, and the transaction of any other business at the meeting, if the waiver so states. 72 Del. Laws, c. 175; 74 Del. Laws, c. 207; 76 Del. Laws, c. 256;

Quorum

Section 10.

A majority of the members elected to the City Council shall constitute a quorum at any regular or special meeting; but a less 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 Council Person, by death, resignation, loss of residence in The City of Lewes, refusal to serve, failure to elect, or otherwise, the same may be filled by a majority vote of the members of the City Council, the person or persons so chosen to fill such vacancy or vacancies shall be qualified as in the case of newly elected members, and shall hold office for the remainder of the unexpired term, except that when the remainder of the unexpired term is greater than two years such person or persons shall hold office until they or their successors have been duly elected and qualified at a Special Election held contemporaneously with the Annual Municipal Election immediately following the filling of such vacancy or vacancies, and subject to the same rules as hereinbefore set forth,. When the remainder of the unexpired term is greater than two years, requiring that a person be duly elected and qualified at a Special Election to fill the two-year remainder of the unexpired term, every candidate desirous of filling such two-year remainder of the unexpired term shall so declare in their notification of candidacy, and such declaration shall prevent the candidate from also being a candidate in the Annual Municipal Election. 69 Del. Laws, c. 97; 80 Del. Laws, c. 142;

Disqualifications

Section 13.

If any Council Person or Mayor, during his term of office, shall be found guilty of any crime or misdemeanor and sentenced to imprisonment for any term whatever, or shall for any reason cease to be resident of said City, he shall forthwith be disqualified to act as a member of Council or Mayor, and his office shall be deemed vacant and shall be filled by Council, as aforesaid. 69 Del. Laws, c. 97

Contracts

Section 14.

- (a) It shall be unlawful for the City Council to make or enter into any contract in excess of Five Hundred Dollars (\$500.00) for materials, supplies, work or labor for the benefit and use of The City of Lewes with any member of the City Council or the Mayor or with any partnership in which any member of the City Council or the Mayor is a general partner or with any corporation in which any member of the City Council or the Mayor is a director or controlling stockholder or with any firm or company which any member of the City Council or Mayor is pecuniarily interested, provided that if all the elected members of the City Council shall vote to enter into such contract, then the City 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; PROVIDED, HOWEVER, that competitive bidding shall not be required in any of the following circumstances:
1. The aggregate amount involved is not more than twenty-five thousand dollars (\$25,000.00);
 2. The purchase or contract is for personal or professional services;
 3. The purchase or contract is for any service rendered by a university, college or other educational institution;
 4. The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision thereof;
 5. The purchase or contract is for property or services for which it is impracticable to obtain competition;
 6. The public exigency as determined by the City Council will not permit the delay incident to advertising;
 7. The materials to be purchased are to be used to complete a project under the supervision of the City Manager;
 8. The purchase or contract is for property or services for which the City Council determines the prices received after competitive bidding are unreasonable as to all or part of the requirement or were not independently reached in open competition;

A public emergency as determined by the City Council exists. 64 Del. Laws, c. 233; 77 Del. Laws, c. 9, § 3;

- (c) Notwithstanding the foregoing provisions of this Section 14, a contract may be awarded to a bidder other than the lowest responsible bidder if, in the opinion of the City Council, the interests of the City shall be better served by awarding the contract to another bidder. Such award shall be made only if the City Council makes a written determination of the award, describing the reasons why such award better serves the interest of the

City. Reasons for making such award may include, but are not limited to, unsatisfactory performance on any previously awarded contract by the bidder rejected. 76 Del. Laws, c. 256, § 2

- (d) Notwithstanding the foregoing provisions of this Section 14 and without complying with the competitive bidding procedures described above, the Mayor and City Council of the City of Lewes may enter into any contract necessary or desired in connection with a special development district or tax increment financing district created or designated by the Mayor and City Council of the City of Lewes pursuant to Section 20A hereof except a contract in which the Mayor and City Council of the City of Lewes is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the Mayor and City Council of the City of Lewes and an owner of real property in such district when the contract is generally for the transfer by the owner to the Mayor and City Council of the City of Lewes of the work performed and the cost of labor or material provided by such owner for the benefit of such district. 77 Del. Laws, c. 9, § 1; 76 Del. Laws, c. 256, § 2; 78 Del. Laws, c. 344, § 2;

Duties of the Mayor

Section 15.

- (a) The Mayor of the City of Lewes shall preside at all meetings of City Council. 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 of nuisances and violations of law and ordinances to the City Council at the first regular meeting thereafter. He may require the Alderman or the Assistant Alderman, as hereinafter provided for in this Act, or the resident Justice of the Peace to proceed upon such infractions or violations of law or ordinances immediately in the event that he deems such action to be required.
- (b) The Mayor may, by and with the consent or upon the address of a majority of all members of the Council, remove from office any person appointed by him or her or by any of the Mayor's predecessors.
- (c) The Mayor may appoint such other committees as he deems necessary for the proper administration of The City of Lewes 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.
- (d) It shall be the duty of the Deputy Mayor of the City Council, in the absence of the Mayor to preside at all of the meetings of the City Council and in the event of absence of the Mayor to perform such other duties and have such other powers of the Mayor as are prescribed by the Charter of The City of Lewes or by any ordinance of the Council. 69 Del. Laws, c. 97; 72 Del. Laws, c. 175;

Secretary

Section 16.

- (a) The Secretary shall have charge and custody of the books, journal, records, papers and other effects of the City and shall keep the same in a safe and secure place. He shall keep a full and complete record of all the transactions of The City of Lewes. He shall be an ex-officio member of all committees, and 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 City Council of The City of Lewes. He shall file and keep in a safe place the seal of The City of Lewes and all papers and documents arising out of the proceedings of the City Council of The City of Lewes and relative to the affairs of the City. He shall deliver the same to his successor in office. He shall attest the seal of The City of Lewes when authorized by the City Council and shall perform such duties and have such other powers as may be prescribed by ordinance.
- (b) All books, records and journals of the corporation in the custody of the Secretary may, in the presence of the Mayor, Secretary, Assistant Secretary, or any member of the City Council of The City of Lewes be inspected by any citizen of the City 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 City. 69 Del. Laws, c. 97
- (c) All records, books, papers and documents in the custody of the Secretary shall at all times be open for the inspection of members of the City Council of The City of Lewes.
- (d) The compensation of the Secretary for his duties, as such, shall be determined by the City 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 by the City Council of The City of Lewes and shall receive such compensation as the City Council by resolution shall determine.

Alderman and Assistant Alderman**Section 18.**

- (a) The Mayor, by and with the advice and consent of a majority of all the members of the City Council, 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 City of Lewes and shall not be a member of the City Council of the City of Lewes. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be appointed for a term of one (1) year or until his successor shall be duly appointed. Either the Alderman or the Assistant Alderman may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council of the City of Lewes. 72 Del. Laws, c. 175
- (b) Before entering upon the duties of his office, the persons appointed by the Mayor to serve as Alderman and 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 City of Lewes and ordinances duly enacted by the City Council of The City of Lewes and to carry into effect all orders of the City Council of The City of Lewes 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 the Alderman.
- (c) The City Council shall procure a suitable record for the use of the Alderman and the Assistant Alderman. Such record 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 City of Lewes 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 City of Lewes and any ordinance enacted thereunder; of all neglects, omissions or defaults of any City Officer, agent or employee; 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 except as otherwise provided in the Charter of The City of Lewes. The Alderman and the Assistant Alderman, may in addition to any fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by ordinance by the City Council of The City of Lewes; PROVIDED, HOWEVER, that no cost shall be imposed which is 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 City Council reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the City 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 City Council.
- (g) If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he shall deliver to the City Manager, within two (2) days after his removal from office, all the books and papers belonging to his office, and shall pay over to the City Manager all monies 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 City Manager shall require the auditor of the City, 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 City Manager within the time specified by this Charter, or to pay over all the monies to the City Manager 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 that he fails to deliver the books and papers to the City Manager or to pay over all monies to the City Manager.

City Manager

Section 19.

- (a) The Mayor, by and with the advice and consent of a majority of all the members of the City Council, may appoint a City Manager for such duties, terms and for such compensation as shall be determined by City Council.
- (b) No person holding the office of Mayor or the office of City Councilperson shall, during the term for which elected, be appointed to act as City Manager.
- (c) In case of absence, disability or suspension of the City Manager, the Mayor, with the concurrence of a majority of all the members of the City Council, may designate some qualified person to perform the duties of the office during such absence, disability or suspension. 72 Del. Laws, c. 175; 75 Del. Laws, c. 248

Power to Borrow Money and Issue Bonds

Section 20.

The City Council may borrow money and issue bonds or certificates of indebtedness to secure the payment thereof on the faith and credit of The City of Lewes, to provide funds for the erection, the extension, the enlargement, the 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 or improvements of highways, streets or lanes, or the paving, curbing or erection of gutters along the same; for the construction or repair of sewers or sewage disposal equipment; or to defray the cost or the share of The City of the cost of any permanent municipal improvements; provided, however, that the borrowing of the money therefor shall have been authorized by the City Council and shall have been approved by the electors in the manner and at the time following:

- (a) City Council, by resolution, shall propose to the electors of The City of Lewes that a sum of money not to exceed a stated principal amount, shall be borrowed for any or all of the above purposes; the resolution shall state the maximum principal amount of money desired to be borrowed, the purpose for which it is desired, the manner of securing same, and other pertinent facts relating to the loan which are deemed pertinent by the City Council and in their possession, and shall fix a time and place for a hearing on the said resolution. 74 Del. Laws, c. 208
- (b) 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 City and or, in the discretion of the City Council, distributed in circular form at least one week before the time set for said hearing.
- (c) A second resolution shall then be passed by Council ordering a special election to be held not less than thirty days and not more than sixty days after said public hearing to borrow the said money, for the purpose of voting for or against the proposed loan. The passing of the second resolution calling the special election shall ipso facto be considered Council's determination to proceed in the matter in issue.
- (d) The notice of the time and place of holding the said special election shall be printed in two issues of a newspaper having a general circulation in the City within the thirty days immediately prior to the election, or, in the discretion of the City Council, distributed in circular form at least fifteen days prior to the election, or both at the discretion of the Council.
- (e) At such Special Election,
 - (1) Residents.

Every individual of at least eighteen (18) years of age who is a citizen of the State of Delaware, who is a bona fide resident of the City of Lewes or of public lands under the jurisdiction of the City of Lewes, shall have one (1) vote.
 - (2) Non-resident property owner or leaseholder.
 - (a) Every non-resident owner of real property within the City or holder of public land under a valid lease from the City Council, whether an individual of at least eighteen (18) years of age, a partnership, corporation or other entity, shall have one (1) vote; provided, however, that there shall be no more than one (1) vote per parcel or lot of real property.

- (b) Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote.
- (c) A person, other than an individual, entitled to vote pursuant to this Subparagraph (2), shall, prior to the time any such person's vote is cast, provide the Board of Election with a notarized certificate or resolution naming the individual who is at least eighteen (18) years of age and is a citizen of the United States who is authorized to act on behalf of such person to cast said vote. For parcels or lots owned by more than one (1) individual or entity, only one (1) owner may cast the vote of that parcel or lot.
- (3) These provisions shall be construed so as to permit only 'one-person, one vote'. Where a voter is entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one vote; where a voter is entitled to vote by ownership of two or more properties, that voter shall be entitled to only one vote.
- (4) The books and records of The City of Lewes in the case of property owners, leaseholders and citizens of the City shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.
- (5) In the event that an individual holds a power of attorney duly executed and acknowledged and specifically authorizing the individual to vote at the said Special Election, such duly authenticated power of attorney shall be filed in the Office of the City Manager of The City of Lewes. Said power of attorney so filed shall constitute conclusive evidence of the right of said person to vote at the Special Election. 69 Del. Laws, c. 97; 74 Del. Laws, c. 208
- (f) Any Special Election held pursuant to the provisions of this section shall be conducted by voting machines, an electronic voting system or printed ballots as permitted by law which shall, at a minimum, have the following designation:
- [] For the proposed borrowing
 - [] Against the proposed borrowing
- (g)(1) The Mayor, by and with the advice and consent of a majority of the City Council, shall appoint three (3) persons, who may or may not be registered and qualified voters in the City of Lewes, to act as a Board of Election. The polling places shall be open for a minimum of six (6) hours as specified by the resolution of the Mayor and City Council. Persons in the polling place at the time appointed for closing of the polls shall be entitled to vote. The Board of Election shall be the sole and final judges of the legality of the votes offered at such Special Election and shall keep a true and accurate list of all persons voting.
- (2) The Board of Election shall count the votes for and against the proposed loan; and shall announce the result thereof; shall make a certificate under their hands of the number of votes cast for and against the proposed loan, and shall deliver the same to the Council, and the original shall be filed with the paper of the Council. 74 Del. Laws, c. 208
- (h)(1) If a majority of the votes cast at such Special Election shall be in favor of such borrowing, the City Council shall proceed with the issuance of said bonds or other indebtedness; provided, however, that the City Council may, by resolution, at any time prior to entering into a binding agreement for the public or private sale of such bond(s) or other indebtedness, abandon the proposed borrowing. The City Council shall prepare and cause to be advertised within thirty (30) days following the date of receipt by the City of Lewes of the certificate of the Board of Election described in subsection (g) hereof, the Notice of Adoption described in subsection (k) hereof, in two (2) issues of a newspaper having general circulation in the City of Lewes.
- (2) The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable features, the denomination, the name thereof and any other relative or appurtenant matter thereto shall all be determined by the City Council after said Special Election.
- (3) The bonds may be sold at either public or private sale as determined by the City Council. If the bonds shall be offered for public sale, The City of Lewes shall first advertise a notice of sale inviting bids thereon, in a manner to be prescribed by the City Council, at least five (5) days before the date of sale, on which date of sale bids therefore will be accepted. The bonds shall be sold to the winning bidder whose bid offers the lowest true interest cost to The City of Lewes out of all bids timely submitted.
- (4) With respect to its budget, and in fixing the rate of tax, the City Council shall provide a sinking fund for the payment of interest and principal of said bonds or other indebtedness at the maturity or maturities thereof.

(5) The faith and credit of The City of Lewes shall be deemed to be pledged for the due payment of the bonds or other indebtedness and interest thereon issued under the provision hereof, when the same have been properly executed and delivered for value and there shall be no limitation upon the amount of taxes which may be raised by taxation for the payment of interest on and principal of any bonded indebtedness of The City of Lewes whether incurred before or after the passage of this Act. 74 Del. Laws, c. 208

- (i) The bonded indebtedness shall not at any time exceed in the aggregate the total sum of Twenty-five percentum (25%) of the value of the real property situate within the limits of the City as shown by the last assessment preceding the creation of the said indebtedness.

In the event The City of Lewes should construct or acquire any plant, machinery, appliances, or equipment for the supply of electricity or gas for light, heat or power purposes, authority is hereby granted The City of Lewes to furnish electricity or gas for light, heat or power purposes to the outlying communities beyond the limits of said City as set forth herein or as extended by annexation as herein provided, and provided that such extension will not incur indebtedness in excess of the bonded limit of said City and to do all things necessary to carry out this authority.

There shall be no limitation upon the amount of ad valorem taxes collected to pay the principal of and interest on any bonded indebtedness incurred pursuant to the provisions of this Section. 69 Del. Laws, c. 97

- (j) In anticipation of the issuance of said bonds at any time after a Special Election approving the bond issue, the City Council may issue and sell bond anticipation notes of the City at either public or private sale for not less than par plus accrued interest, if any. Said notes may be renewed from time to time by the issuance of and sale of new notes. Said notes shall bear interest at a rate determined by the City Council to be fair and reasonable. All such notes shall mature and be paid not later than two (2) years from the date of issuance. The aggregate principal amount of all notes outstanding at any one time shall not exceed the aggregate principal amount of the notes authorized by the Special Elections approving such notes. Said notes shall be redeemed at par plus accrued interest, if any, prior to their maturity if the City Council shall have reserved the right to do so by an express provision in the note or notes. The principal and any interest due on said notes may be paid from the proceeds of the sale of the bonds authorized by this section. Both interest on and principal of any bond anticipation notes shall not be subject to taxation by the state of Delaware or any political subdivision thereof. 74 Del. Laws, c. 208

- (k) No action contesting any proceedings conducted, or action taken, by the City Council hereunder regarding the authorization of any bonds or other indebtedness issued under this Section shall be brought after the expiration of twenty (20) days from the publication of a Notice of Adoption in two (2) issues of a newspaper having general circulation in The City of Lewes, which Notice of Adoption shall announce the following information:

- (1) That The City Council has determined to borrow a sum of money not to exceed a stated amount and to issue bonds or other indebtedness therefore;
- (2) That the proposal has been approved by a majority of those casting votes at a Special Election in the City of Lewes called for the purpose of voting for or against the borrowing;
- (3) The maximum principal amount of money to be borrowed and any other details of the bonds or such other indebtedness, to the extent such details are known at the time of the advertisement of such notice;
- (4) The purpose for which such amount of money is to be borrowed;
- (5) That any person desiring to challenge the authorization of such bond(s) or other indebtedness must bring his, her or its action within twenty (20) days from the date of publication of such notice or forever be barred from doing so; and

Such notice shall be in bold print or bordered in black in such manner to call attention thereto. 74 Del. Laws, c. 208

- (l) The City Council may refund any or all outstanding bonds or other indebtedness of The City of Lewes at the maturity thereof or in accordance with any callable feature or provision contained therein but refunding of such bonds or other indebtedness of The City of Lewes shall not require the procedures set out in this Section 20 so long as the outstanding principal amount of the refunding bonds or other indebtedness does not exceed the aggregate principal amount, plus accrued interest and redemption premium, if any, of the outstanding bonds or indebtedness to be refunded, plus the costs of the refunding, and shall be enacted by resolution of the City Council. 74 Del. Laws, c. 208

Section 20A.

In addition to all other powers the Mayor and City Council of the City of Lewes may have, and notwithstanding any limitation of law, the Mayor and City Council of the City of Lewes shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts. Bonds are non-recourse to the City of Lewes and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property. 77 Del. Laws, c. 9, § 3

The Treasurer**Section 21.**

- (a) At the first regular meeting of the City Council following the annual election in each year, the Mayor, by and with the advice and consent of the majority of all of the members of the City Council, shall appoint a Treasurer who shall be a member of the City Council for a term of one (1) year. The Treasurer may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council. In the event that the office of Treasurer shall become vacant by reason of death, resignation, removal or otherwise, the Mayor, by and with the advice and consent of a majority of all the members of City Council, at the next regular meeting after said office shall have become vacant, shall appoint a proper person as defined herein to serve for the balance of the unexpired term of the said office.
- (b) Before the Treasurer enters upon the duties of his office, he shall give bond to the City of Lewes with surety being an insurance company authorized to do business in the State of Delaware in the penal sum of Twenty Thousand Dollars (\$20,000.00), conditioned upon the faithful discharge of the trust imposed in him and the payment over to The City of Lewes or to his successor in office of all such sums of money as may remain in his hands upon the settlement of his accounts. The said Treasurer shall pay all orders drawn on him by the City Council, and shall settle his accounts with City Council annually before the fifth day of December, and as often at such times as the City Council shall require. The said Treasurer shall receive a reasonable compensation to be determined by the City Council. 72 Del. Laws, c. 175

City Solicitor**Section 22.**

At the first meeting following the annual election, the Mayor, by and with the advice and consent of a majority of all the members of the City Council, shall appoint a City Solicitor for a term of one (1) year. The City Solicitor shall be a member in good standing of the Bar of the State of Delaware. It shall be his or her duty to give legal advice to the Mayor and City Council and other officers of the City and to perform such other legal services as may be required by the City Council. The City Solicitor may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council of the City of Lewes. 72 Del. Laws, c. 175

Board of Health**Section 23.**

- (a) The Board of Health shall consist of four (4) members, one of whom shall be a practicing physician with an office in the City. The Mayor, by and with the advice and consent of a majority of all the members of the City Council, shall appoint the Board of Health, for a term of one (1) year or until their successors are duly appointed and qualified. The members of the Board of Health may be removed from office, at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council. The Board of Health shall have cognizance of and interest in the life and health of the people of the City. It shall report to the City Council, in writing, whatever is deemed by the Board to be injurious to the health of the people of the City, and shall make recommendations to the City Council concerning whatever may contribute to the health and sanitation of the people. The Board shall organize, by the election of a President and a Secretary, within thirty (30) days after the notice of their appointments and shall keep a record of their proceedings and acts. The Secretary shall be the executive officer of the Board. 72 Del. Laws, c. 175

- (b) The Secretary of the Board may be allowed a reasonable annual compensation for his services which shall be determined by the City 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 City Council, but he shall be a resident of the City.
- (c) The power to adopt ordinances relating to the health of the population of the City, or to prevent the introduction or spread of infections or contagious diseases or nuisances affecting the same, shall extend to area outside of the City within one mile from said limits.

Police Force

Section 24.

- (a) The City Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of a police force. The police force shall preserve peace and order and shall compel obedience within the corporate limits of the City to the ordinances of the City and the laws of the State of Delaware. The police force shall have such other duties as the City Council shall from time to time prescribe. The City Council may subject the Chief of Police and the members of the police force to the direction of the City Manager acting on behalf of the City Council.
- (b) Each member of the police force shall be vested, within the City limits, with all the powers and authority of a State Police Officer, and, in the case of pursuit of an offender, the power and authority shall be without territorial limitations. They shall be conservators of the peace throughout the City and they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. They shall compel the enforcement of all ordinances enacted by the Mayor and City Council and all criminal, motor vehicle laws and violations enacted by the State of Delaware.
- (c) Every person sentenced to imprisonment shall be delivered by a member of the police force to the correctional institution located in Sussex County or held in appropriate holding facilities to be there imprisoned for the term of such sentence.
- (d) It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in all public ways and places of the City, and, upon view of the above or upon view of any violation of any ordinance of the City relating to the peace and good order thereof, the police force shall have the right and power to arrest without warrant and to take the offender before the Alderman, Assistant Alderman or before any Justice of the Peace in Sussex County for hearing thereon. In the case of an arrest at a time when the Alderman, or the Assistant Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Sussex County or held in appropriate holding facilities 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. 72 Del. Laws, c. 175; 75 Del. Laws, c. 248;

Assessor

Section 25.

- (a) At the first regular meeting following the annual municipal election, the Mayor, by and with the advice and consent of a majority of all the members of City Council, shall appoint a bona fide resident being a freeholder or leaseholder as defined herein of the City to be the Assessor.
- (b) On good behavior, the term of office of the Assessor shall be one year and shall expire on the date of the first regular meeting of the year succeeding his appointment.
The Assessor may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council.
- (c) He shall be sworn or affirmed by the Mayor of The City of Lewes, to perform his duties with fidelity and without favor. It shall be his duty to make a fair and impartial assessment of property and persons subject to taxation situated within the City and to perform such other duties in reference thereto as shall be prescribed, from time to time, by the City Council.
- (d) The compensation to be by him received for the performance of his duties and the hiring of employees to assist him in the performance of his duties shall be fixed by and subject to the approval of the City Council. 72 Del. Laws, c. 175

Assessment of Taxes**Section 26.**

- (a) The Assessor shall, prior to the first regular meeting in January, make a just, true and impartial annual valuation or assessment of all real estate and improvements located on lands under lease as defined herein within The City of Lewes. In making such assessment, the rules, and exemptions now applicable by law to the making of the County Assessment of persons and properties shall be applicable insofar as consistent with the provisions of this Charter. All real estate and improvements located on lands under lease as defined herein shall be described with sufficient particularity to be identified. Real estate and improvements located on lands under lease as defined herein shall be assessed to the owner or owners if he or they be known. If the owner or owners 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 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 of Sussex County at Georgetown, Delaware.
- (b) The Assessor shall also make a personal assessment of all the male and female citizens of the City above the age of eighteen (18) years. He shall also make a personal assessment against all person or persons residing within the limits of the City whether he be an owner of said real estate or not; said personal assessment shall be determined by The Commissioners and certified to the Assessor. Said personal assessment or per-capita tax, in the case of both resident and non-resident real estate owner, shall be in addition to the assessment levied on the real estate so owned by and assessed against them. 69 Del. Laws, c. 97
- (c) The Assessor, after making such annual assessment, shall at the first regular meeting in January, aforesaid, deliver to the City Council, a list containing the names of all persons assessed and the amount of the assessment against each. He shall also deliver at such time as many copies of said list as the City Council shall direct.
- (d) The annual assessment list shall distinguish the real and personal assessment of each person and shall also be arranged so that the land, the improvements thereon, the improvements located on lands under lease as defined herein and the per-capita assessment shall appear in separate column of spaces. In making its assessment, the Assessor shall make his valuation accordingly.
- (e) The real property of the Assessor shall be assessed by the City Council.
- (f) Immediately upon receiving the annual assessment list from the Assessor, the City Council shall cause a full and complete copy of same containing the amount assessed to each taxable to be hung in a public place in The City of Lewes, and there is shall remain for a period of at least ten (10) days for the information of an examination of all concerned. Appended thereto and also in five (5) or more public places in said City, there shall be posted notices advising all concerned that any property owner or leaseholder who desires to appeal his assessment shall file an appeal in writing stating the reason or reasons therefor not later than a certain day mentioned therein and not earlier than ten (10) days after the date of posting the true and correct copy of the annual assessment list and further that at the next regular meeting of the City Council following the expiration of time when an appeal shall be filed, the City Council will fix a time and date when the City Council will hold a Board of Appeals at which time it shall hear appeals filed in writing within the time specified from the said annual assessment. The decision of the City Council, sitting as a Board of Appeals, shall be final and conclusive, and said City Council shall revise and complete said assessment at this sitting. No Council Person shall sit upon his own appeal, but the same shall be heard and determined by the other members of the City Council. 69 Del. Laws, c. 97
- (g) The Assessor shall be present on the day fixed for hearing appeals and shall furnish to the City Council such information and answer such questions as the City Council may require in respect to any assessment from which an appeal has been taken. The City Council shall have authority to enforce his attendance by appropriate process.

Supplemental Assessment**Section 26A.**

- (a) In addition to the annual assessment provided for in Section 26 of this Charter, the Assessor may, at his option, prepare a quarterly supplemental assessment list for any of the following purposes:
Adding property which was not included on the last annual assessment;
Increasing the assessed value of property which was included in the last assessment;
Correcting errors on the prior annual assessment;
Revising or modifying any exemption from taxation applicable to property within the City;
- (b) The supplemental assessment list shall be prepared quarterly by the Assessor and the first such supplemental assessment shall be certified to the City Council on May 1, the second on August 1, the third on November 1, and the fourth on February 1 of each year.
- (c) On the date of certification of the supplemental assessment list to the City Council by the Assessor each property owner shall be liable for the payment of real estate taxes equal to the assessed value of the property multiplied by the tax rate for the then current fiscal year applicable to the property; reduced by twenty-five percent (25%) when the property is listed on the second supplemental assessment list; fifty percent (50%) when the property is listed on the third supplemental assessment list; and seventy-five (75%) when the property is listed on the fourth supplemental assessment list. The amount of such tax, together with any interest, penalty and collection charge shall be a lien for a period of ten (10) years from the date of certification of the supplemental assessment list to the City Council by the Assessor and such lien shall have preference and priority to all other liens created or suffered on real estate or upon leaseholds or upon improvements located on land under lease as prescribed in this Charter although such lien or liens be of a date prior to the time of the attaching of such lien for taxes.
- (d) Whenever the Assessor places a property on a supplemental assessment list, he shall deposit notice thereof in the regular mail addressed to the owner of the property affected thereby at the address shown on the assessment list, or if the address of such owner does not appear on the assessment list, then to the person occupying the property, or if there is no apparent occupant, such notice shall be posted on the property. Such notice shall be given no later than the date on which the supplemental list on which the property appears is certified to the City Council by the Assessor. The certification by the Assessor that the notice required by this Subsection was mailed or posted, as the case may be, shall be conclusive evidence that notice to the property owner was received.
- (e) The Assessor shall publish a notice of the place or places where the supplemental assessment list may be inspected together with a notice of the time and place in the City when appeals in writing stating the reason or reasons therefor may be filed by any property owner or leaseholder, from the supplemental assessment list, not earlier than ten (10) days from the date of last publication and noticing that at the next regular meeting following the expiration of time when an appeal may be filed, the City Council will fix a time and place when the City Council will sit as a Board of Appeals to hear those appeals filed in writing within the time specified from the Supplemental Assessment. Such notice shall appear at least once a week for two (2) consecutive weeks in a newspaper of general circulation in the City. The decision of the City Council sitting as a Board of Appeals, shall be final and conclusive and the said City Council shall revise and complete the said supplemental assessment at this sitting. Neither the Mayor nor any member of the City Council shall sit upon his appeal but the same shall be held and determined by the other members of the City Council.

Pending determination of the appeal, the property owner may either pay the tax imposed by the supplemental assessment and if on appeal the assessment is reduced, the property owner shall be entitled to a refund of the taxes which he has paid plus interest thereon at the rate of one percent (1%) per month for each month or fraction thereof from the date of payment or the property owner may decline to pay the tax imposed by the supplemental assessment in which case, interest and penalties shall accrue at the rate of one percent (1%) for each month or fraction thereof that the taxes remain unpaid and delinquent.

In the collection of all taxes imposed by the supplemental assessment list there shall be no deduction nor abatement of the taxes and the City Manager shall add an amount equal to one percent (1%) per month for each month or fraction thereof that such taxes remain unpaid following the date that such taxes became delinquent.

All taxes imposed by the Supplemental Assessment list and paid later than June 30 for the First Supplemental Assessment in each Year, August 31 for the Second Supplemental Assessment, November 30 for the Third Supplemental Assessment and February 28 for the Fourth Supplemental Assessment shall be delinquent. 68 Del. Laws, c. 218; 69 Del. Laws, c. 97

Section 27.

- (a) At the first regular meeting in March, after having revised and completed the assessment, the City Council shall determine to their best judgment and knowledge the total amount necessary to be raised by the City to meet all fixed and anticipated expenses and obligations of the City, including reasonable and appropriate reserves, for the then current fiscal year as set forth in the City Budget for each year plus a reasonable amount to cover unanticipated expenses and emergencies. 60 Del. Laws, c. 127
- (b) It shall then proceed to determine, in its sole discretion, from which sources of the authorized revenues of the City 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. The City Council shall then proceed to determine, assess, fix and/or levy the following:
 - a. The rate of tax on real estate and on improvements located thereon and on improvements located on land under lease as defined herein per \$100 of assessed value; and/or
 - b. The amount of personal or per-capita tax upon each qualified voter; and/or
 - c. The rate of tax upon all poles, constructions, erections, wires and appliances more particularly mentioned, or intended so to be, in Section 29 (32) of this Charter, as amended; and/or
 - d. The several license fees to be charged for carrying on or conducting of the several businesses, professions, or occupations more particularly mentioned, or intended so to be in Section 29 (33) of this Charter, as amended; and/or
 - e. The fees or rates to be charged in respect of any other authorized source of revenue sufficient in their best judgment and estimation to realize the amount to be raised from each such source determined by them to be used, as aforesaid; Provided, however, that sources "d" and "e" aforementioned may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and at any other regular or special meeting of the Council as it, in its own proper discretion, shall determine.
- (c) Immediately after the first regular meeting in February of each and every year, the City 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 a, b, and c, above mentioned. This list shall be known as the annual tax list of The City of Lewes. In addition to the information contained in the assessment list; it shall likewise contain information as to the rate of tax upon real estate and upon improvements located on land under lease, as defined herein, per \$100 of assessed value thereof.
- (d) The City Council shall cause to be delivered to the City Manager a duplicate of said annual tax list, and the City Manager shall immediately proceed to collect the same as hereinafter provided.
- (e) Nothing contained in this Charter shall be construed to effect or impair in any way the validity of any tax, fee, assessment, or other charge lawfully levied, assessed, or due the Commissioners of Lewes, under existing laws in reference to said City and the same are hereby declared to be valid, binding and vested in The City of Lewes created hereby.

Collection of Annual Taxes**Section 28.**

- (a) The City Manager, as soon as the City Council shall have placed in his hands the duplicate annual tax list, shall proceed at once to collect the taxes on said duplicate list.
- (b) All taxes so laid or imposed by The City of Lewes in such annual tax list, shall be and constitute a lien upon all the real estate together with improvements located thereon and a lien upon any improvements located on land under lease, as defined herein, of the taxable, against or upon whom such taxes are laid or imposed, of which such taxable was seized or owned at any time after such taxes shall have been levied and imposed, that is situated in The City of Lewes. Such lien shall have preference and priority to all other such liens on real estate or upon improvements located on land under lease as prescribed herein created or suffered by said taxable although such other lien or liens be of a date prior to the time of the attaching of such lien for taxes; provided, that the lien for such City taxes shall remain a lien for a period of ten (10) years from the date upon which the City Council shall deliver unto the City Manager the tax list therefor. If such real estate, or improvements located on land under lease as defined herein, remains the property of such person or persons who owned it at the time the tax was laid, then the lien shall not be extinguished until the tax is collected.
- (c) All taxes shall be paid to the City Manager of The City of Lewes, and all taxes shall be due and payable at and from the time of the delivery of the tax list to the City Manager.

- (d) All taxes shall be paid at the City office.
- (e) In the collection of said taxes, the City Manager shall neither deduct nor abate any amount from the tax assessment and shall add an amount equal to one and one-half percent (1 1/2%) per month for each month or fraction thereof that such taxes remain unpaid following June 30. All taxes unpaid after June 30 of any year shall be considered delinquent. 68 Del. Laws, c. 218; 69 Del. Laws, c. 97; 76 Del. Laws, c. 8
- (f) On the same day of the month of the second year following the delivery of the duplicate annual tax list to the City Manager, the City Manager shall make full, final and complete settlement with the City Council. The settlement shall take place on that day in the room in which the City Council holds their meetings. At such settlement, the City Council shall allow to the City Manager all taxes which shall have been impossible to collect by reason of errors in the assessment list, delinquencies or otherwise. No allowance shall be made for the default of neglect or delay of the City Manager. The settlement shall be final and conclusive and no other allowances, in any form shall be made to the City Manager by the City Council. Upon the conclusion of the settlement, the City Manager shall pay over to The City of Lewes, the aggregate amount of the taxes found to be due the City. Upon his failure or neglect to do so, it shall be the duty of the City Council to proceed to collect the same from the City Manager, and/or his surety. Default by the City Manager to the City in any sum, shall ipso facto, vacate his office; provided, however, that the City Council, for good cause shown shall have the power to extend the time for settlement by the City Manager for a period not exceeding six months.

Enumeration of Powers

Section 29.

Not by way of limitation upon the power vested in the City Council to exercise all powers delegated by this Charter to the municipal corporation except as may expressly appear herein to the contrary, but, rather, by way of enumeration and for purposes of clarity, the City Council is vested by this Charter with the following powers, to be exercised by said City Council in the interest of good government and the safety, health and welfare of the City, 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 and good order of the City 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, watercourse, park, lake, strand, crosswalk, wharf, dock, sewer, drain, aqueduct or pipe line, or portion thereof, in the City; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; and to enter into contracts or agreements for the doing thereof, including contracts or agreements with the State Highway of the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other highway within the City.
6. To regulate or control the observance of the Sabbath Day.
7. To establish and regulate pounds and to restrain, prohibit and empound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same, and to impose taxes on the owners of dogs.
8. To locate, regulate, license, restrain or require the removal of slaughter houses, wash houses, laundries, canning establishments, phosphate, fish, fertilizer or manure plants or establishments, swine pens, privies, water closets and any business or buildings or conditions detrimental to the public health or constituting a public nuisance or of an offensive or noxious nature.
9. To enforce the removal of snow, ice, dirt or other foreign substance from sidewalks and gutters by owners or abutting owners.
10. To prohibit, remove, or regulate the erection and maintenance of, any stoop, step, platform, bay window, cellar door, gate, area, descent, sign, post, or any other erection of projection in, over upon or under any street, highway, alley, lane, watercourse, park, lake, strand, sidewalk, crosswalk, wharf, dock, sewer, drain, aqueduct or pipeline of the City.

11. To define, prevent, abate or remove nuisances, obstructions or any condition detrimental to the public safety, health or welfare.
12. To provide an ample supply of pure water for The City 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 and about the collection, storage, purification, conveyance, distribution or sale of water; to regulate and prescribe for what private or public purposes the water furnished by the municipal corporation 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 willful or negligent injury or damage to or interference with the water system or equipment of the City; to furnish, or refuse to furnish, water from the City system to places and properties outside the City limits; and to contract for and purchase water and distribute the same to users within or without the City with the same full powers as though such water had been initially reduced to usefulness by the municipal corporation 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 City; to regulate and prescribe for what private or public 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 willful or negligent injury or damage to, or interference with the said system, plant or facilities; to furnish or refuse to furnish, sewer disposal service from the City system to places and properties outside the City limits; in the interest of the public's health, to compel any and all properties in the City to be connected to the sewer system of the City; and to contract for and purchase sewer disposal service and to resell the same to users within or without the City with the same full powers as though such service had been initially provided by the facilities therefor of the municipal corporation itself.
14. To provide, construct, extend, maintain, manage and control a 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 City and for lighting the streets, highways, lanes, alleys, watercourses, parks, lake strands, sidewalks, crosswalks, wharves, docks, public buildings or other public places of the City, 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 necessary properly to light the City and to furnish proper connections for electric current and gas to the properties of the inhabitants of the City who may desire the same; to regulate and prescribe for what private or public purpose the current or gas furnished by the municipal corporation may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury or damage to or interference with the electric or gas system or systems to places and properties outside the City limits; and to contract for and purchase electric current or gas and distribute the same to user within or without the City with the same full powers as though such current or gas had been initially reduced to usefulness by the municipal corporation itself. In providing charges for sale of electric current to a rental unit, the City may require the owner of said rental unit to be responsible for and to pay for the electric current furnished to such rental unit. 64 Del. Laws, c. 306
15. To fully control within the City 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 City, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend, maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the City.
16. To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, boardwalks, or fills for the preservation of any strand or high land within the limits of the City or contiguous thereto, to the end that the same may be preserved, property protected and 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 City Council shall deem wise, to use the present and future streets, highways, lanes, alleys, watercourses, parks, lakes, strands, sidewalks, crosswalks, wharves,., docks, and other public places of the City for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, railroad excepting railroads or railways engaged in interstate commerce, bus, taxi or other transportation, carrier or public service to the City and to the persons, firms, or corporations residing or located therein and for the purpose of transmitting the same from or through the City to points outside the limits thereof, and for the

purpose of erecting wharves and piers, and for the purpose of vending any article of merchandise or service upon, or from any vehicle upon any such present and future street, highway, lane, alley, etc.; provided, that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever.

18. To regulate and control the exercise of any license or franchise mentioned in Section 29 (17) of this Charter or intended so to be.
19. To direct, regulate and control the planting, rearing, treatment and preserving of ornamental shade trees in the streets, highways, avenues, parks and grounds of the City 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 City 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 of storage of gunpowder, 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 fire.
23. For the prevention of fire and the preservation of the beauty of the City, 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; zone or district the City and make particular provisions for particular zones of districts with regard to building or building materials; and, generally to exercise all the powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of 22 Del. C. § 301 et seq., and all amendments thereto.
24. To acquire, build, erect and maintain a suitable place as a lock-up or jail for the City which shall be used as a place of detention for persons convicted of violation of law or ordinance, or for the 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 the jails of Sussex County may be used for any such purpose, in which event the City shall pay for the board of persons committed thereto for violations of ordinances of the City which are not violations of any general law of the State.
25. To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping offices of the City.
26. To regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, beanshooters, and any other devices for discharging missiles which might cause bodily harm or injury to property; and to regulate or prevent the use of fireworks, bombs and detonating works of all kinds.
27. To provide for the punishment of a violation of any ordinance of the City by fine or imprisonment, or both, not exceeding Five Hundred Dollars (\$500.00) or Sixty (60) days, and for working any person sentenced to such imprisonment or any person who shall refuse to so work when ordered.
28. To provide for the organization of a fire department and the control and government thereof; to establish fire limits and do all things necessary for the prevention and extinguishment of fires; and, in their discretion, to contribute, donate or give an amount or amounts, not to exceed in the total during any given fiscal year, twelve per centum (12%) of the total taxes levied on real estate, unto any Volunteer Fire Company or Companies incorporated under the Laws of Delaware, or any Volunteer Fire Association or Associations maintaining and operating fire fighting equipment and service to the City; provided, that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as The City Council shall deem advisable. 58 Del. Laws, c. 24
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 abatement of nuisances and the like, laying out and repairing sidewalks, or other charge due the City 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 and to levy and collect taxes for any and all municipal purposes upon improvements having an assessed valuation of at least One Thousand Dollars (\$1,000.00) located on land under a valid lease for a period of at least ten (10) years within the City, except lands belonging to the City; provided, that the amount to be raised from the source shall not exceed the sum of three-million five-hundred thousand dollars

(\$3,500,000). 63 Del. Laws, c. 110; 65 Del. Laws, c. 22; 68 Del. Laws, c. 218; 75 Del. Laws, c. 3; 80 Del. Laws, c. 142;

31. To levy and collect a personal or per capita tax upon all persons otherwise qualified to vote at any annual municipal election to be used for any and all municipal purposes.
32. To levy and collect taxes upon all telephone, telegraph, power poles, pipe lines, rail lines or other constructions or erections of a like character erected within the limits of the City, 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 anytime direct the same to be included in or added to the City Assessment. In case the owner or leasee of such constructions or erections, wires or other appliances shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies for the collection thereof set forth in Section 31 of this Charter, the City Council shall have 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 City) of such various amounts as the City 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 City; provided, however, that nothing 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 City 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 sources and in what proportions taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the municipal corporation and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness.
35. To provide for the collection of and disbursement of all monies to which the City may become entitled by law, including licenses and fines, where no provision for the collection and disbursement thereof is otherwise provided in the Charter.
36. To borrow money in the name of the City for any proper municipal purpose, and in order to secure the payment of the same, to issue bonds or other kinds or forms of certificate or certificates of indebtedness, pledging the full faith and credit of the City or such other security or securities as the City 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 City shall be exempt from all State, County or municipal taxes; provided, that in no event shall the indebtedness of the City, for any and all purposes, at any one time exceed in the aggregate twenty-five percentum (25%) of the assessed value of all real estate in the City subject to assessment for the purpose of levying the annual tax hereinbefore mentioned.
37. To acquire, and/or to vacate the use of, lands, tenements, personality, property, easements, rights-of-way, or any interest in property, either within or without the limits of the City, 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 municipal corporation by the Charter. Proceedings by way of condemnation in any such case shall be the same or prescribed hereafter in Section 34 of this Charter for the opening and laying out of new streets or the vacating or abandoning of old streets and the resolutions referred to in said Section 34 shall be changed and modified to cover any case contemplated hereby.
38. To appropriate money to pay the debts, liabilities and expenditures of the City, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the City 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 City by the performance of labor or service for the City by any person owing the same.
40. To inquire into and investigate the conduct of any officer, agent, or employee of the City or any municipal affair, and for any such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and production of books, papers or other evidence by summary process.
41. The City Council may by ordinance duly adopted in accordance with this Charter, establish a Pension Plan or a Health and Welfare Plan, or both, for the employees of The City of Lewes under such terms and conditions as the City Council, in its discretion, deems most appropriate; provided, however, that the method of funding, may, if deemed advisable by the City Council, be handled through a recognized insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of all the Members of the City Council.

To make, adopt and establish all such ordinance, regulations, rules and by-laws, not contrary to the laws of this State and the United States, as the City 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 City, the protection and preservation of persons and property and of the public health and welfare of the City and its inhabitants; provided, that any ordinance relating to the public health of the City 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 City but as well to all areas and persons outside the City within one mile from said limits. 66 Del. Laws, c. 288

42. To have, take, purchase, receive, possess, enjoy and retain by lawful means, to it and its successors and assigns within said City, or beyond the limits thereof, lands, tenements, hereditaments, goods, chattels, and effects of what kind, nature or quality so ever necessary for municipal purposes, and the same to sell, grant, demise, alien, mortgage, manage, hold and control of the same at pleasure, except as prohibited by the Constitution and laws of the United States and the State of Delaware or as restricted by this Charter.
43. To receive devises, bequests and donations of all kinds of property within said City and beyond the limits thereof for its own use and benefit, or in trust for charitable, benevolent, educational or other public purposes, and to do all acts necessary to carry out the purposes of such devises, bequests, gifts and donations.
44. To impose upon new development, redevelopment, new construction or reconstruction or upon first-time occupancy of new construction or reconstruction, such impact fees as are reasonably calculated to recover the cost of installing, enlarging, improving or expanding public or municipal improvements which have a rational nexus to such new development, redevelopment, new construction or reconstruction. 76 Del. Laws, c. 256

Procedure for Referendum

Section 29A

- a. Qualified residents and property owners of the City of Lewes shall have the power to require reconsideration by the City Council of the City of Lewes of any adopted ordinance and to approve or reject it at an election as provided herein, provided, however, that such power of referendum shall not extend to the budget or capital program, any emergency ordinance, any zoning ordinance, any ordinance relating to the appropriation of money, nor to any ordinance relating to the levy of taxes.
- b. A Referendum Petition signed by residents and property owners of the City of Lewes entitled to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day that the Referendum Petition was signed by such resident or property owner, whether or not such resident or property owner is a registered voter, equal in number in at least forty percent (40%) of the total number of voters who voted in the Annual Municipal Election next preceding the execution of the Referendum Petition with the local address of the person so signing, or three hundred (300) residents and property owners, qualified as aforesaid, which ever is greater, shall be presented to the City Council of the City of Lewes at the next regular meeting of the City Council of the City of Lewes following adoption of the ordinance sought to be reconsidered. Each copy of such petition shall contain and have attached thereto throughout its circulation the full text of the ordinance sought to be reconsidered.
- c. Each copy of the petition shall have attached to it, when filed, an affidavit executed by the signer thereof stating that he personally circulated the petition, the number of signatures thereon, that all signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be, that each person who signed it is qualified to sign the petition and that each signer had an opportunity before signing to read the full text of the ordinance sought to be reconsidered.
- d. A Petition for Referendum shall be filed at the next regular meeting of the City Council of the City of Lewes following adoption by the City Council of the City of Lewes of the ordinance sought to be reconsidered or it shall not be the subject of a referendum. If there are less than twenty-eight (28) days from the date of the adoption of the ordinance sought to be reconsidered until the next regular meeting of the City Council of the City of Lewes, the Petition for Referendum shall be presented at the first regular meeting of the City Council of the City of Lewes following the expiration of the said twenty-eight (28) day period or the ordinance sought to be reconsidered shall not be the subject of a referendum.
- e. Within twenty (20) days after the petition is filed with the City Council of the City of Lewes at a regular meeting, the City Manager shall complete a certificate as to its sufficiency, specifying, that if it is insufficient, the particulars wherein it is defective, shall promptly send a copy of the certificate to the circulator of such petition by certified mail with return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended one (1) time if the circulator files a Notice of Intention to Amend with the City

Manager within two (2) days after receiving a copy of his certificate and files a Supplementary Petition upon additional papers within five (5) days after receiving the copy of such certificate. Such Supplementary Petition shall comply with the requirements of this Section concerning form, content and the affidavit of the circulator. Within five (5) days after it is filed, the City Manager shall complete a certificate as to the sufficiency of the petition, as amended and shall promptly send a copy of such certificate to the circulator by certified mail with return receipt requested, as in the case of the original petition. If the petition, or amended petition is certified sufficient, or if the petition or amended petition is certified insufficient and the circulator does not elect to amend or request a review of the sufficiency of the certificate by the City Council of the City of Lewes within the time required, the City Manager shall promptly present his certificate to the City Council of the City of Lewes at the next regular meeting and the certificate shall be a form of determination as to the sufficiency of the petition.

- f. If a petition has been certified to be insufficient and the circulator has not filed Notice of Intention to Amend, or if an amended petition has been certified insufficient, the circulator may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the City Council of the City of Lewes. The City Council of the City of Lewes shall review the certificate at the next regular meeting following the filing of such request and approve or disapprove it, and the determination of the City Council of the City of Lewes shall be a final determination as to the sufficiency of the petition.
- g. Any person or persons, jointly or severally, aggrieved by the decision of the City Council of the City of Lewes may present to the Superior Court of the State of Delaware, a petition, duly verified, setting forth that such decision is invalid, in whole or in part, specifying the grounds of such invalidity. Such petition shall be presented to the Court within thirty (30) days following the determination by the City Council of the City of Lewes as to the insufficiency of such petition. Upon presentation of the petition, the Court may allow a Writ of Certiorari directed to the City Council of the City of Lewes to review such decision of the City Council of the City of Lewes and shall prescribe therein the time in which a return thereto must be made and served upon the petitioner or his attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the Writ shall stay proceedings upon the decision or determination appealed from. The Court may reverse, or affirm, wholly or partly, or may modify the determination brought up for review.
- h. Upon the filing of the Petition for a Referendum for the City Manager, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate upon the happening of any of the following events:
 1. There is a final determination of insufficiency of the Petition; or
 2. The Petition is withdrawn by the circulator or circulators thereof or sufficient copies thereof are withdrawn so that there are insufficient number of signatures as required by this Section; or
 3. The City Council of the City of Lewes repeals the ordinance; or
 4. Thirty (30) days have elapsed after a vote by the voters on the ordinance; or
 5. There is a final determination by the Superior Court.
- i. The City Council of the City of Lewes shall reconsider the referred ordinance at the first regular meeting after the Petition for a Referendum has been finally determined to be sufficient. If the City Council of the City of Lewes fails to repeal the referred ordinance, the referred ordinance shall be submitted to the voters of the City of Lewes at an election.
- j. The vote of residents and property owners of the City of Lewes on a referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days from the date that the petition is determined to be sufficient. If the Annual Municipal Election is to be held within the period prescribed in this Section, such referendum shall be considered as part of that Election. If the Annual Municipal Election is not to be held within the period prescribed in this Section, the City Council of the City of Lewes shall provide for a special election. If the City Council of the City of Lewes fails to hold a referendum within the time specified in this Section, the ordinance for which the petition was filed shall be deemed to be repealed at the expiration of sixty (60) days from the date that the petition was considered to be sufficient, and shall not be passed in the same form for a period of six (6) months from the effective date or repeal.
- k. At the said election at which the ordinance sought to be repealed is to be reconsidered, every person, male or female, who shall be registered on the "Books of Registered Voters" of the City of Lewes as prescribed in this Charter shall have one (1) vote. Any person who shall register on the "Books of Registered Voters" shall be entitled to vote in the election provided for by this Section. A person may register at the Office of the City Manager during the regular office hours on any day in order to vote in the election at which the ordinance is to be reconsidered until the close of business on the second Friday prior to the date of the said election. Any person registered to vote in any Annual Municipal Election shall not be required to register in order to vote in

any Special Election to be held pursuant to this Section. The "Books of Registered Voters" shall be conclusive evidence of the right of any person to vote at any election at which the ordinance sought to be repealed is to be considered.

- I. The notice of the time and place of holding the said Special Election shall be printed in at least two (2) issues of a newspaper having a general circulation in the City of Lewes within thirty (30) days immediately preceding the date of the Special Election.
- m. The Mayor of the City of Lewes shall appoint three persons to act as a Board of Special Election, if a Special Election is required. The polling place or places shall be open from 12 o'clock noon, prevailing time, until 6 o'clock in the evening, prevailing time, on the date set for the Special Election. Persons in the polling place at 6 o'clock in the evening, prevailing time, shall be entitled to vote even though such votes may be cast after 6 o'clock in the evening, prevailing time.
- n. Immediately after the closing of the polling place or places, the Board of Special Election, or the Board of Election if the referendum is held on the day of the Annual Municipal Election, as the case may be, shall count the ballots for and against the proposition as presented and shall announce the results thereof. The Board of Special Election or the Board of Election, as the case may be, shall make a certificate under their hands of the number of votes cast for and against the proposed ordinance and the number of void votes and shall deliver the same to the City Council of the City of Lewes. The said certificate shall be filed with the papers of the City Council of the City of Lewes.
- o. The form of the ballot of the said Election, whether the same be considered at the Annual Municipal Election or at a Special Election shall be as follows:
 - For the Referred Ordinance.
 - Against the Referred Ordinance.
 - (Check your preference.)

Paper ballots may be used in any Special Election on a referral of an ordinance. The City Council shall cause to be prepared and printed a sufficient number of ballots not less than five (5) days prior to the date of the Special Election. Voting machines shall be used if the referendum is held on the day of the Annual Municipal Election if voting machines are required for the Annual Municipal Election.

- p. If the majority of the registered voters voting on a referred ordinance vote against such ordinance, it shall be considered repealed upon the certification of the result of the election by the Board of Special Election in the case of a Special Election or upon the certification of the Board of Election in the case of such referendum being held on the day of the Annual Municipal Election. No ordinance which has been repealed as the result of a referendum shall be passed again in the same form by the City Council of the City of Lewes for a period of six (6) months from the date of the referendum. 61 Del. Laws, c. 362

Town Budget

Section 30.

- (a) The fiscal year of The City of Lewes shall be from April 1st of one year to March 31st of the next succeeding year.
- (b) Annually each year and not later than February 1, the City Manager shall prepare a rough draft of a City Budget. From this rough draft, the City Council shall, not later than March 15 of each year, prepare the City Budget, containing the financial plan for conducting the affairs of the City for the ensuing fiscal year. 60 Del. Laws, c. 127
- (c) The Budget shall contain the following information:
 1. A detailed estimate showing the expense of conducting each department and office of the City 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 City, together with a schedule of maturities of bond issues.
 4. An itemized statement of all other estimated expenses to be incurred in the affairs of the City.
 5. A statement of the amount required for interest on the bonded debt, the amount necessary to pay any Bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds".
 6. An estimate of the amount of money to be received from taxes, assessments and all other anticipated income of the City from any source or sources whatsoever.

- (d) The City Council shall, so far as possible, adhere to the Budget so adopted in the making of appropriations.

Remedies for Collection of Taxes Assessments and other Charges

Section 31.

- (a) A remedy by distress as now prescribed by law is hereby preserved to the City Manager for the collection of any taxes, assessments, license fees, warrants, rentals or other charges for which he may be responsible.
- (b) At any time after the delivery of the duplicate annual tax list or duplicate scrap sewer assessment list or warrant or any other list of charges due The City of Lewes, the City Manager may institute suit in the name of The City of Lewes before any Justice of the Peace or Court of the State of Delaware, in any of the Counties of the State, for the recovery of the unpaid tax, assessment, license fee, rental or other charge, in any action of debt, and upon judgment obtained, may issue Writs of Execution as in case of other judgments recovered before a Justice of the Peace.
- (c) The said execution shall constitute a lien upon all the personal property of the taxable within the County where the judgment shall have been obtained, which by virtue of such execution shall be levied upon within thirty (30) days after the issuance thereof, and such lien shall have priority over all other liens against said personal property created or suffered by the taxable, except such liens thereon which may have been created in respect to County Taxes, although such other liens be of date prior to the time of the attachment of the said tax liens.
- (d) Any time after the delivery of any such duplicate annual tax list, assessment list, or warrant, or other lists containing charge due the City, the City Manager may notify, in writing, the person, firm or corporation by whom any taxable is employed that the tax, assessment, license fee, warrant, rental or other charge of said employee is due and unpaid. The notice shall be signed by the City Manager and shall contain the correct name of the taxable as it appears upon any such list, the amount of the tax, assessment, rental or other charge due with penalties and interest added, if any. Thereupon it shall be the duty of the employer to take from the wage, salary or other money then due the taxable, the amount of the tax, assessment, license fee, warrant, rental or other charge, together with penalties and interest added, if any owing, from the employee, and charge the same against him, and to pay the same to the Treasurer within ten (10) days. The City Manager shall give to the employer a certificate of payment which shall be allowed in any suit or accounting between the employer and taxable. If the employer be notified as aforesaid and, having in his hands money belonging to the taxable, shall neglect or refuse to comply with the provisions hereof, such employer shall become personally liable for the amount of the tax, assessment, license fee, warrant, or other charges, together with penalties and interest due thereon, if any, of the persons as to whom notice was given, and the amount thereof may be recovered from such employer in an action of debt before any Justice of the Peace, or Court of State of Delaware, as aforesaid. This process shall be deemed to be in the nature of a garnishment proceeding.
- (e) The City Manager may make a complaint under oath before any Justice of the Peace, that the tax of any taxable is due and unpaid and that he has been unable to make collection of the tax, assessment, license fee, warrant, rental or other charge by any of the methods for the recovery of taxes prescribed by this Charter, and thereupon a warrant shall be issued for the arrest of such taxable and if, after hearing it shall be found that the tax, assessment, license fee, warrant, rental or other charge, of the person arrested is due and unpaid, and if the taxable shall thereon fail to pay the tax, assessment, license fee, warrant, rental or other charge, together with accrued costs, he shall be committed to the jail of Sussex County, or City lockup until the tax, assessment, license fee, warrant, rental, penalty, cost and charges are paid, but, in no event shall the term of his imprisonment exceed thirty (30) days.
- (f) For the purpose of collecting the tax, assessment, license fee, warrant, rent or any other charge due the City from any taxable, and without the necessity of first employing the other remedies herein provided the Treasurer is empowered to sell the lands and tenements of the taxable or the improvements of a taxable located on land under a valid lease for a term of at least ten years which said lease is recorded in the Office of the Recorder of Deeds, in and for Sussex County, or the lands and tenements of a taxable, alienated, subsequent to the levy of the tax, assessment, license fee, warrant, rent or other charge.
- (g) The City Manager shall present to the Superior Court of Sussex County a petition which shall state:
1. The name of the taxable, assessee, license, or charges.
 2. The year for which the tax, assessment, license, rent or other charge was levied.
 3. The rate of the tax, assessment, license, rent or other charge.
 4. The total amount due.

5. The date from which the penalty for non-payment, if any, shall commence and the rate of such penalty.
 6. A short description of the lands and tenements or a short description of the improvement located on the lands under as defined herein proposed to be sold sufficient to identify the same.
 7. A statement that a bill of said tax, assessment, license, rent or other charge has been mailed to the taxable that he will proceed to sell the lands and tenements of the taxable for the payment of the tax, assessment, license, warrant, rent or other charge due the City, and the date of such mailing.
 8. That it has been found impractical to attempt to collect the said tax, assessment, license, rent or other charge, by any other remedy hereinbefore provided.
- (h) At least ten (10) days prior to the filing of any such petition, the City Manager shall deposit in the mail, in a sealed and stamped wrapper and requiring a return registry receipt, addressed to the taxable at his last known address, an itemized statement of the tax, assessment, license, warrant, rent or other charge due the City, together with all penalties and costs then due thereon, together with a notice to the taxable that he shall proceed to sell the lands and tenements of the taxable for the payment of the tax, assessment, license, warrant, rent or other charge due the City. The City Manager shall exhibit the return registry receipt to the Court by filing the same with the petition.
- (i) The petition shall be filed by the City Manager and shall be verified before a Notary Public.
- (j) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Court and shall endorse upon said record of said petition, the following:
 "This petition filed the day, of A.D..... (giving the day and year), and the City Manager of The City of Lewes shall therefore proceed to sell the lands and tenements herein mentioned or a sufficient part thereof, for the payment of the amount due", which endorsement shall be signed by the Prothonotary.
- (k) The City Manager shall then proceed to advertise the lands and tenements of the taxable by posting handbills in at least five (5) public places in The City of Lewes (one of which shall be posted on the premises) and publishing the notice of said sale in a newspaper published in Sussex County. The notice shall contain the day, hour and place of sale and a short description of the premises sufficient to identify the same. The notice shall be posted at least ten (10) days before the day fixed for the sale and shall be published in the newspaper at least one week before the day of the sale.
- (l) Each sale of lands and tenements or of improvements located on lands under lease as defined herein shall be returned to the Superior Court, aforesaid, at the ensuing term thereof following the sale. At the return of said sale the Court shall inquire into the circumstances and either approve or set aside the sale. No sale shall be approved by the Court if the owner be ready at the Court to pay the taxes, assessment, license fee, rent or other charge due the City, together with penalty, interest and costs, if any. If it set aside the sale, the Court may order another sale and so on until the tax, assessment, license fee, rent or other charge due is collected.
- (m) If the sale shall be approved by the Court, then at the expiration of one year from the date of the sale (which shall be known as the redemption year) the City Manager shall make, execute and deliver a deed or a bill of sale to the purchaser, his heirs or assigns, which shall convey the title of the taxable, assessee, licensee, tenant or lessee or charges or his alienee, as the case may be: PROVIDED, HOWEVER, that within the redemption year, the owner, his heirs or assigns, shall have power to redeem the lands or improvements located on lands under lease as defined herein on payment of the costs, the amount of the purchase money and twenty per cent interest thereon to the purchaser, his heirs or assigns. If the purchaser refuses to accept the same or in the event the purchaser, or his heirs or assigns, cannot be located within the State of Delaware, then in either event, it shall be lawful for the owner, his heirs, executors or assigns, to pay the amount of the redemption money to the City Manager of The City of Lewes, and upon taking from him a good and lawful receipt therefor, such receipt shall be considered for all intents and purposes as a valid and lawful exercise of the owner, his heirs, executors and assigns, of his or their power to redeem the land so sold.
- (n) After satisfying the tax, assessment, license or other charge due and the cost and expenses of sale from the proceeds of the sale the amount remaining in the hands of the City Manager shall be paid, at once, to the owner of the land or of the improvement located on lands under lease as defined herein. Should the owner of the land or of the improvement located on lands under lease as defined herein refuse to accept the same, or the owner is unknown or cannot be found the amount remaining shall be deposited in some bank in The City of Lewes, either to the credit of the owner, or in a manner by which the fund may be identified.
- (o) In sales of land or of improvements located on lands under lease as defined herein for the payment of taxes, assessments, licenses, warrants, rentals or other charges due The City of Lewes, the following costs shall be allowed, which shall be deducted by the City Manager from the proceeds of the sale, or chargeable against the owner; the prothonotary of the Court shall receive for filing and recording the Return of Sale. The City Manager

shall be entitled to receive the sum of \$5.00 for every sale of real estate or improvements located on lands under lease as defined herein made by him in the exercise of said powers for the enforcement of the payment of taxes, assessments, licenses, warrants, rentals or other charges, together with such additional sum as may be reasonable and proper for the service of Counsel in preparing such papers as may be necessary in premises, all of which shall be a part of the costs to be paid out of the purchase money realized out of the sale of said real estate sold for the taxes, assessments, license fees, warrants, rentals or other charge due the City.

- (p) The cost of the deed shall not be chargeable as costs but shall be paid by the purchaser.
- (q) If the owner or lessee as defined herein of any lands and tenements, or of improvements on leased land, as defined herein, against which a tax shall be levied and assessed or from whom rent shall be due shall be unknown, this fact shall be stated in the advertisement of sale and in the petition to the Court.
- (r) If any person is assessed for several parcels of land and tenements in the same assessment, or if rent from land under lease shall be due for several parcels, or if improvements shall have been erected on several parcels of land under lease, as defined herein, the total of said taxes, assessments, rents and other charges due the City, may be collected from the sale of any portion of said lands and tenements or from any improvements, provided, that the land alienated or lease assigned by the taxable or lessee shall not be sold until other property of the taxable or lessee shall have been first disposed of.
- (s) In addition to all other remedies, methods and authorities for the collection of taxes, the Mayor and City Council may use the monition method for the collection of such taxes as established for Sussex County and authority is thereby established for them to do so. 76 Del. Laws, c. 256

Power to Borrow against Anticipated Revenues

Section 32.

The City Council of The City of Lewes shall have full power and authority to anticipate revenue by borrowing upon the faith and credit of The City of Lewes, the sum or sums of, not exceeding Ten Percent (10%) of the assessed valuation of all real estate in the City and on public lands under the jurisdiction of the City Council in any one fiscal year, when, in the opinion of the majority of the said City Council, the needs of The City of Lewes demand it. The City Council may secure said sum or sums of money so borrowed by promissory notes of The City and attested by the Secretary, either with or without the corporate seal of The City of Lewes affixed as is requested by the bank or person advancing the money on said notes, and no Officer nor Council Person shall be personally liable for the payment of such notes because it is signed by them as Officers of The City of Lewes, and is authorized by the resolution of the City Council; provided, however, any sum of money borrowed on the faith and credit of The City of Lewes, as aforesaid, in any fiscal year, shall be paid out of the general funds of the City, at the minimum rate of Ten percentum (10%) per fiscal year and shall be completely paid at the end of ten (10) fiscal years following the first fiscal year which said money was borrowed with interest thereon. 69 Del. Laws, c. 97

Powers over Public Land

Section 33.

- (a) All the public and vacant lands lying within the corporate limits of The City of Lewes as defined herein or as later extended pursuant to this Charter, and all the public or vacant lands contiguous to but outside the corporate limits of said City and fronting on the Bay between the point of Cape Henlopen on the south and Veasey's Inlet on the north shall be vested in the City Council of The City of Lewes, and the said City Council shall have jurisdiction over the same; and all ordinances adopted by the said City Council shall have the same force over and upon the said public and vacant lands as within the corporate limits of said City, and the City Council is hereby authorized to lease, to persons who will improve or agree to improve the same, such portions of said public lands for such time and upon such terms as the City Council may deem proper for the interest and benefit of said City; and if hereafter any person or persons shall, without the permission and consent of the City Council build upon any of said public lands, he, she or they shall forfeit such improvements or buildings to the said City.
- (b) The City Council may assess or levy upon any person or persons leasing, occupying, enclosing, or claiming the uses or privileges of any of the said public lands vested as aforesaid in The City of Lewes, and not held under lease from the City at a certain rent which expressly includes taxes, and not held by virtue of the provisions of any act of the Legislature of this State otherwise providing, a tax, not exceeding six percent of the

assessed actual value of the lands so leased, enclosed, occupied or claimed, and two percent of the actual value of the improvements thereon.

- (c) Nothing herein contained shall be construed to authorize any person or persons to build upon or enclose any of the said public lands without permission and consent of the City Council, nor to authorize the City Council to assess or levy a tax upon persons excluded from the provisions of Section 9 of the Act entitled "An Act to Incorporate the Town of Lewes, and for other Purposes", as amended by Chapter 535 of Volume 14 of the Laws of Delaware, and as re-published in Chapter 536 of the same volume.
- (d) The City Council of The City of Lewes is hereby vested with full and exclusive authority and control over the Great and Beach Marshes, Cape and Cape Marshes, near Lewes, and may sell and dispose of the grass and hay thereof in the month of July in each and every year, at public sale, giving notice by printed advertisements, posted in five of the most public places in Lewes and Rehoboth Hundred ten days before the day of sale, to the highest and best bidder or bidders for the same; the notices shall specify the place where and the time when the grass or hay will be sold; the City Council is further authorized to sell sand and gravel by measure or otherwise, as may be deemed by the City Council to be to the best interest of the City, wherever such sand and gravel may be located within the limits of the vested lands of The City of Lewes; and the City Council is further authorized to sell the wood and timber on the Cape and Cape Marshes at any time that it may be necessary or desirable for any improvement made in or near said City, by and with the concurrence of a majority of the members of the City Council; and the proceeds arising from the sale of the sand, gravel, grass, hay, wood and timber shall be paid over to the Treasurer of the City, to be applied by the City Council to such improvements of the City as they may deem proper. If any person or Persons without first obtaining permission from the City Council, shall fell, cut, cart or convey any green timber or wood, or any timber on or from said Cape for any private use whatsoever, except wood cut from dead timber for fuel, he or they shall forfeit and pay any sum not exceeding fifty dollars, with costs, to be recovered by the City Council, for the use of the City, in the same manner as debts of that amount are recoverable; and persons so offending shall also be subject to a fine, not exceeding ten dollars, to be enforced as other fines and penalties provided for in this Act; and the City Council may seize any timber or wood so cut, from any person or persons so offending and may dispose of the same to the highest bidder, for the use of said City, and may pass any rules, regulations and ordinances regarding the cutting of said timber as they may deem proper for the interest of said City; provided that nothing in this Section or Act shall authorize the City Council to pass any ordinances to prevent any citizen of The City of Lewes or State of Delaware from fishing along said Delaware Bay Shore.

Streets

Section 34.

- (a) The City 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 they shall deem it for the best interest of the City. The procedure set forth in this Section shall have precedence over any other procedure concerning a public street within the corporate limits of the City. 69 Del. Laws, c. 97
- (b) The procedure to be used to do any of those things heretofore listed shall be as follows:
 - 1. Whenever five (5) or more property owners in a portion of the City directly affected or abutting on the proposed street to be opened, laid out, changed, altered, or closed, shall by written petition with each signature duly acknowledged, request the City Council to lay out, locate, or open a new street or to widen or alter an existing street or any part thereof or to vacate or abandon a street or any part thereof, the Mayor of the City of Lewes shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of changing the structure of said street in the City. The petition presented to the Council by the property owners shall include a description of property through which the proposed street shall be laid out or a description of the street on which any other of the actions hereinbefore described shall take place and the reasons why the change in the structure of the streets of the City should be undertaken; or the City Council by a majority vote of the elected members thereof may by Resolution propose that a committee 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 City for any of the reasons hereinbefore set forth.
- (c) Not later than ninety (90) days following its appointment the committee shall submit a report concerning its findings to the Mayor and the City Council. The report shall contain the advantages and disadvantages to the City caused by the changing of the street structure and shall contain the conclusion of said committee either

recommending or disapproving the changing of such street structure. If the report of the committee appointed by the Mayor recommends changing the existing street structure of the City of Lewes and a majority of the elected members of the City Council concur therein, the Council by resolution shall propose to the property owners and citizens of the City 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 City. If the report of the committee appointed by the Mayor is not in favor of changing the existing street structure of The City of Lewes the resolution proposing the change in the street structure to the property owners and citizens of The City of Lewes shall be passed by a majority of three-fourths of the elected members of the City Council. The resolution shall contain a description of the proposed change and shall fix a time and place for a public hearing on the matter of changing the street structure. The resolution adopted by the City Council shall be printed in a newspaper published in The City of Lewes, or, if no newspaper is published in The City of Lewes, publication may be had in a newspaper having a general circulation in the City, or in the discretion of the City Council, the resolution shall be posted in five (5) public places in the City for at least one week before the time set for the public hearing. The resolution shall also state the hour and place where and when the City 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 City.

- (d) Whenever the City Council shall have determined to locate or layout or widen any street, lane or alley, and shall have affixed the compensation, therefore, it shall be their duty, immediately after the survey and location of said street, land or alley, to notify by registered letter with return receipt requested, the owner or owners of the real estate through or over which such street, lane or alley may run, of their determination to open or widen the same, and to furnish a general description of the location thereof; also the amount of the compensation or damages allowed to each such property owner, and if such owner be not a resident within the City, to notify the holder or tenant of said real estate and the owner of such property if his address be known; but if there be no holder or tenant resident in said City 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 is dissatisfied with the amount of compensation or damages allowed by the City as aforesaid, said property owner may, within ten (10) days after such notice as aforesaid was posted or mailed, appeal from the written notice of assessment or compensation or damages by serving written notice by registered mail with return receipt requested upon the Mayor of the City to the effect that he or she is dissatisfied with the amount of said compensation or damages, and 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 Sussex 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 this State who is that time resident of Sussex 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 the said County, three (3) of whom shall be residents of The City of Lewes, and two of whom shall be non-residents of said City, demanding them to assess the damages which the owner of the real estate through or over which the said street, lane or alley shall pass, and who shall have notified the said City Council of their intention to appeal, may incur by reason thereof, and to make return of their proceeding to the said Judge at the time therein appointed.
- (e) 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 aforesaid, and shall make return, in writing of their proceedings to the said Judge who shall deliver and return to the City 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 City 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 City during the said period of thirty (30) days, then same shall be deposited to his or her credit in a banking institution as may be described by the City Council, which institution shall be licensed in the State of Delaware and insured by the Federal Deposit Insurance Corporation or its successor, with offices in Georgetown, Sussex County, Delaware, within said time, and thereupon the said property of lands may be taken or occupied for the uses aforesaid.
- (f) 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 City out of any money in the hands of the Treasurer belonging to the City; 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 allowed for each day's actual service or of any part of a day the sum of Five Dollars (\$5.00). After the damages shall be fixed and

ascertained by the freeholders, the City 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.

- (g) In the event that the City Council feels that the damages assessed are not just as being excessive, it may then appeal to the Supreme Court of the State of Delaware. If the owner of the property feels that the damages awarded are inadequate, such owner may appeal to the Supreme Court of the State of Delaware. 72 Del. Laws, c. 175

Curbing and Paving

Section 35.

- (a) The City Council shall have the power to cause to be paved or repaved the sidewalks of said City, or any part or portion thereof, to cause to be repaired or relaid existing curbs or gutters, or both, or any part or portion thereof, or to cause to be laid, installed or constructed new curbs or gutters, or both, or any part or portion thereof with such material or materials and of such width or size and subject to such specifications as The City Council shall determine.
- (b) Before the exercise of said power in any particular instance, the City Council shall adopt an ordinance or resolution stating in effect that on a named day and at a named hour and place, the City Council will meet to consider the question of paving or repaving the sidewalks, repairing existing curbs or gutters, or both, or altering existing curbs or gutters, or both, with any specified material or materials or to construct new curbs or gutters, or both.
- (c) The ordinance or resolution shall specify the streets and the names and addresses of the owners of property in front of or adjacent to whose property the work shall be done.
- (d) The said ordinance or resolution shall be published at least one (1) week prior to the meeting of the City Council in at least one (1) issue of a newspaper having a general circulation in The City of Lewes.
- (e) The City Council shall hold a meeting in said City pursuant to the provisions of said ordinance or resolution and at such meeting shall hear the owners of property and other residents of the City appearing on the question referred to in the said ordinance or resolution.
- (f) Following said hearing, the City Council, either at said meeting or at a subsequent meeting, shall decide whether to proceed with the improvements referred to in said ordinance or resolution, or any part thereof, and if it shall decide to proceed, it shall determine whether the whole or some specified proportion of the cost of the improvements, repairs or replacements shall be assessed to the owner or owners of the property in front of or adjacent to whose property the said improvements, repairs or replacements are being constructed or installed. If the City Council concludes that the whole or a specified proportion of said cost shall be borne by said owners, the said owners shall be compelled to pay the whole or the specified proportion of the costs of the said work, the amount to be paid to be determined by the linear frontage of the parcel in front of which the sidewalk is to be paved or repaved or of the gutter to be laid, repaired or replaced or the curb to be repaired, constructed, or installed or any or all of said improvements, as the case may be.
- (g) When the said paving or repaving, curbing or recurbing, guttering or reguttering, or any or all of them shall have been completed and the costs thereof ascertained, the City Council shall ascertain the amount that the owner of each parcel of property shall pay and shall give written notice thereof to such owner, or one of the co-owners if there be more than one (1) owner, by mailing the same to his last known address by first class mail with postage prepaid. If any owner shall fail to pay the specified amount within thirty (30) days after the mailing of such notice, the amount, together with costs and interest may be collected by the City Manager in the same manner and under the same terms and conditions as are provided for the collection of delinquent taxes.
- (h) Any notice sent to one (1) co-owner shall be notice to all owners and in a case if no owners reside within the corporate limits of The City of Lewes, notice served as set forth herein or posted upon the premises shall be sufficient.
- (i) Provisions contained herein shall apply to any ordinance or resolution enacted or adopted by the City Council in respect to any pavement, sidewalk, gutter or curb heretofore made or done which the said City Council may deem to need repair or replacement. 67 Del. Laws, c. 421

Use of Town Money

Section 36.

- (a) The City Council shall have the power and authority to use the money in the Treasury of said City, or of any portion thereof, for the improvement, benefit, protection, ornament, and the best interest of the said City as it may deem advisable and to use the City money to accomplish and carry into effect all acts and things which it has power to do by virtue of the Constitution, Laws of Delaware, this Act and all lawful ordinances and resolutions of Council. In the general performance of their duties the acts, doings and determination of a majority of the Council of said City shall be as good and binding as the acts, doings and determination of the whole. In case of vacancy or vacancies in the City Council, the remaining members until such vacancy or vacancies shall be filled as hereinbefore provided, shall have the same power and authority as the whole.

Obstructions, Nuisances and Unsanitary Conditions**Section 37 A.**

The City Council shall have power and authority to enact ordinances or adopt resolutions to define, prevent, abate and remove all obstructions, nuisances and unsanitary conditions at any time existing or deemed to be contemplated by any property owner or tenant or any property owner thereof whether in the street square, lane or alleys, or on the sidewalks or any other public or private place within the limits of said City either on its own inspection, or upon written complaint of any citizen of the City stating the character and location of the obstruction, nuisances or unsanitary conditions, and signed by the citizen making the complaint. If a majority of the elected members of the City Council either upon inspection or upon such inspection or upon such information, or both, shall determine that such obstruction, nuisance or unsanitary condition exists and ought to be removed or abated, as the case may be, the City Council shall enact an ordinance or adopt a resolution, or both, appropriate to the contemplated or existing commission and the City Council shall thereupon give notice in writing by registered mail with return receipt requested, signed by the Mayor to the person or persons contemplating or causing such obstruction, nuisance or unsanitary condition, or to the person or persons who are responsible for its existence or continuance to remove or abate the same and if such person or persons refuse or neglect for the space of two (2) days to take steps to abate or remove the stated condition after such notice is received, Council shall have the power and authority to cause such obstruction, nuisance or unsanitary condition to be removed or abated; and for this purpose Council may issue a warrant in the name of the City of Lewes, under the hand of its Mayor and the Seal of the City, and directed to any Constable of Sussex County, commanding him forthwith to abate such obstruction, nuisance or unsanitary condition, whereupon the Constable to whom said warrant may be delivered shall forthwith proceed to remove or abate the same and for such purpose he shall have full power and authority to enter into and upon any lands and premises in said City and to take with him such assistance, implements, horses, carts, wagons, automobiles, trucks, or other things, as may be necessary and proper, and to do and perform all matters and things right, proper and necessary to be done for the removal or abatement of such obstruction, nuisance, or unsanitary condition. The costs of all the necessary work, labor and proceedings of the City in the removal or abatement of such obstruction, nuisance or unsanitary condition shall be determined by Council upon the completion of the work, and if such amount be not paid to the Treasurer, for the use of the City, by the person or persons causing or responsible for such obstructions, nuisance or unsanitary condition within ten days after a bill stating the amount of such costs is presented or mailed to such person or persons, at their last and best known post office address, then Council may proceed to collect the same out of the goods and chattels, lands and tenements, of such person or persons, and it shall be the duty of Council to issue a warrant in the name of The City of Lewes under the hand of the Mayor, and the Seal of the City, directed to the Alderman or any Justice of the Peace commanding him that of the goods and chattels, land and tenements of such person or persons he shall cause to be levied and make the amount of said bill, together with all costs. It shall be the duty of the Alderman or a Justice of the Peace, as soon as convenient thereafter, and after ten days, written notice to such person or persons, deposited in the mails and directed to such person or persons at his or their last and best known post office address, and after posting five or more notices of sale in at least five of the most public places in said City at least ten days before the day of sale, to first sell the goods and chattels of such person or persons at public auction in said City, or so much thereof as may be necessary to pay the amount of said bill with all costs. If no goods or chattels of such person or persons can be found in said City, or the goods and chattels found and sold as aforesaid be not sufficient to satisfy the amount of said bill, with all costs, then it shall be the duty of the said Alderman or Justice of the Peace, after further notice of ten days, given to said person or persons in the same manner as aforesaid, for the sale of goods and chattels, and after posting five or more notices of sale in at least five of the most public places in said City, for at least ten days before the day of sale, and after causing such notice of sale to be published once, in a newspaper published in Sussex County, to sell the land and tenements of such person or persons, or so much thereof as may be sufficient to satisfy the amount of said bill and all costs, and a deed from the Alderman or Justice of the Peace of said City shall be made and shall convey to the purchaser or purchasers of such lands

and tenements as full and complete title in fee simple or lesser estate, as if same were executed by the person or persons whose lands and tenements were sold as aforesaid. The claim for the expenses of the City in removing or abating such obstruction, nuisance or unsanitary condition, and all costs, shall be a lien on the premises where such obstruction, nuisance or unsanitary condition exists, and said lien shall relate back to the time when the first notice to remove or abate shall have been served upon such person or persons and shall have priority over any lien, encumbrance or conveyance suffered or made by such person or persons after the mailing of said notice. It shall be the duty of the Alderman or Justice of the Peace, out of the purchase money from the sale of said goods and chattels, or lands and tenements, to pay all costs arising from said proceedings and sale to the parties entitled to such costs, to retain and pay to the Treasurer, for the use of the City, the amount of the said bill to the City, and the residue of said purchase money, if any, shall be at once deposited in some bank in The City of Lewes to the credit of the owner or owners of said goods and chattels, or lands and tenements. The Alderman or Justice of the Peace shall be entitled to receive Ten Dollars for every sale of personalty under this Section and Twenty Dollars for every sale of real estate under this Section, together with such additional sum as may be allowed by Council for the keeping and care of such personal property, for selling the same, and for said advertising, all of which shall be a part of the costs aforesaid to be paid out of the purchase money. Any notice required by this Section to one co-owner shall be notice to all, and in case of no owner shall reside in said City, said written notice deposited in the mail in a sealed envelope and addressed to such owner at his or her best known post office address shall be deemed proper notice. Council in addition to the provisions of this Section by imposing such fines and penalties as shall be, in the judgment of Council, necessary and proper which shall be additional to the said expenses and costs of removal or abatement. For all the purposes of this Section, any property, whether dwelling, storehouse, or both, or otherwise, which does not have proper connections with the sewer system of the said City, if such sewer connections be available for such property, shall be deemed to be in an unsanitary condition under the meaning of this Section, at the discretion of the Council.

Real Estate Transfer Tax

Section 37 B.

- a. The City Council of the City of Lewes, in addition to the powers now conferred, shall have the power and authority by Ordinance or Ordinances to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the City Council of the City of Lewes to be paid by the transferer or transferee upon the transfer of real property or any interest in real property situate within the corporate limits of the City of Lewes or in any territory outside the corporate limits of the City of Lewes but under the jurisdiction of the City of Lewes, regardless of whether the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur; provided however, that no tax levied under this Section shall exceed one percent (1%) of the sales price (including the value of any assumed mortgage or mortgages) or the fair market value of the real property so transferred; and provided further, that no tax shall be levied upon an organization exempted from the payment of ad valorem real estate taxes. 67 Del. Laws, c. 286
- (b) No ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property authorized under this section shall become effective unless it receives an affirmative vote of two-thirds of all the elected members of the City Council of The City of Lewes.
- (c) If the taxing power authority granted under this section shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds in and for Sussex County shall not receive for record any documents subject to said tax unless such stamps are affixed thereto.
- (d) The City Council of The City of Lewes may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this section.
- (e) No tax levied under this section shall exceed the difference between any tax levied by the State of Delaware on the same property and one percent (1%).
- (f) This Act shall not become effective until it shall be approved by a majority of the qualified voters at a Special Election to be held pursuant to a Resolution adopted by the City Council of The City of Lewes. The City Council of The City of Lewes shall give notice of the Special Election by printing a copy of the Resolution calling the Special Election in at least two issues of a news paper having a general circulation within the corporate limits of The City of Lewes within thirty (30) days immediately preceding the date of such Special Election. At the said Special Election every person who is a bona fide resident of The City of Lewes, and who would be entitled at the time of the holding of the said Special Election pursuant to the provisions of this Act to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day of the Special Election to be held pursuant to the provisions of this Act may vote at the said Special Election, and such votes may be cast

either in person or pursuant to a Power of Attorney as in Section 3, Chapter 170, Volume 57, Laws of Delaware. The Special Election shall be held by a Board of Election to be appointed by the Mayor of the City of Lewes at least two weeks before such Special Election. The Election Board shall consist of an Inspector of the Special Election and such Judges as shall be authorized by the City Council of The City of Lewes. If a majority of the votes cast at the Special Election shall be in favor of the transfer tax authorized by this Act, the tax may be levied and collected as provided for in this Act. The Board of Election holding the Special Election shall meet after the close of such election to ascertain the result and shall certify the result to the City Council of The City of Lewes. The hours of the Special Election shall be from Twelve o'clock noon, prevailing time, until Six o'clock in the evening, prevailing time, and such persons who are in the polling place at Six o'clock in the evening, prevailing time, shall be entitled to vote even though such votes may be cast after Six o'clock in the evening, prevailing time, for the purposes of holding the Special Election as provided for in this Act, paper ballots may be used. If the majority of the votes cast at any Special Election held under this Act shall be against the levying of the tax authorized by this Act, the proposition shall not again be submitted to the qualified voters for a period of Ninety (90) days from the date of such Special Election. 61 Del. Laws, c. 51

Municipal Zoning Regulations

Section 38.

For the purpose of protection against fire, promoting health, safety, morals or the general welfare of the community, the City Council is hereby empowered to adopt ordinances to regulate and restrict the height, number of stories, size of buildings and other structures, the density of population, and the location and use of buildings, structures and lands for trade, industry, residence or other purposes, and this power shall embrace new buildings or additions to or alterations of existing structures of every kind; to condemn buildings or structures, or portions thereof, that constitute a fire menace, and to require or cause the same to be torn down, removed, or so altered as to eliminate the menace of fires; to prescribe the height and thickness of any building and the kind and grade of materials used in the construction thereof.

Actions or Suits against City

Section 39.

No Action, suit or proceeding shall be brought or maintained against The City of Lewes for damages, either compensatory or punitive, on account of any physical injury or injuries, death or injury of property by reason of the negligence, simple, gross, willful or wanton of the said The City of Lewes or any of its departments, officers, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted, within Ninety (90) days from the happening of such injury or the suffering of such damage, shall notify in writing the Mayor of The City of Lewes of the time, place, cause, character and extent of the injury sustained, so enrolled or damages suffered.

Survival of Power and Validating Section

72 Del. Laws, c. 175

Section 41.

This Act shall operate to amend, revise and consolidate, "An Act to re-incorporate The Town of Lewes" being Chapter 170, Volume 43, Laws of Delaware, and the various amendments and supplements thereto, and to repeal all such parts of said Act and its amendments and supplements as are manifestly inconsistent with the provisions of this Act. All powers conferred upon or vested in The Commissioners of Lewes by any Act of Law of the State of Delaware not in conflict with the provisions of this Charter, are hereby expressly conferred upon, and vested in The City of Lewes and/or the City Council of The City of Lewes, precisely as if each of the said powers was expressly repeated in this Charter. All ordinances and resolutions heretofore lawfully enacted or adopted by the Commissioners of Lewes or resolutions and regulations adopted by the Board of Public Works and in force at the time of the approval of this Charter shall continue in full force and effect until the same or any of them shall be repealed, modified or altered by the City Council of The City of Lewes under the provisions of this Charter; all the acts and doings of the Commissioners of Lewes or any officers or employees of the Commissioners of Lewes, lawfully done or performed under the provisions of any law of this State, or of any ordinance of said Commissioners of Lewes, prior to the approval of this Act, are hereby ratified and confirmed; all taxes, debt, fine or

penalties assessments and forfeitures due the Commissioners of Lewes shall be deemed to be due The City of Lewes, and all debts due from the Commissioners of Lewes shall be deemed to be due from The City of Lewes and the same shall remain unimpaired until paid; and the power, right and authority to collect taxes and rentals imposed under the provisions of this Act, and the processes which may be employed hereunder, shall be deemed to apply and to extend to all unpaid taxes and rentals imposed under the Charter of the Commissioners of Lewes and all amendments and supplements thereto; the bonds given by or on account of any official of the Commissioners of Lewes shall not be impaired by or affected by the provisions of this Act, but The City of Lewes shall succeed to all the benefits of said bonds; all valid laws heretofore passed relating to or concerning the Commissioners of Lewes or authorizing the borrowing of money and the issuing of bonds on the credit of said Commissioners of Lewes shall be and remain valid and good heretofore, and be unaffected and unimpaired by this Act.

If any part of this Act shall be held unconstitutional, such holding shall not in any wise invalidate the remaining provisions of this Act. This Act shall be deemed and known to be a public act.

Approved June 19, 1969.

SEE ALSO THE FOLLOWING LEGISLATIVE ENACTMENTS RELATING TO AMENDING CHAPTER 196, VOLUME 22, LAWS OF DELAWARE, WHICH ACT AUTHORIZED THE COMMISSIONERS OF LEWES TO APPOINT A BOARD OF PUBLIC WORKS AND GRANTING VARIOUS POWERS AND DUTIES TO SAID BOARD

60 Del. Laws, c. 126

63 Del. Laws, c. 375

65 Del. Laws, c. 86

69 Del. Laws, c. 411

70 Del. Laws, c. 440

71 Del. Laws, c. 197

SEE ALSO SECTION 32 OF 69 Del. Laws, c. 97, WHICH SEEKS TO AMEND SECTION 28 (g) OF THE LEWES CHARTER WHICH DOES NOT APPEAR TO EXIST

57 Del. Laws, c. 170; 58 Del. Laws, c. 24; 58 Del. Laws, c. 590; 59 Del. Laws, c. 15; 60 Del. Laws, c. 127; 61 Del. Laws, c. 51; 61 Del. Laws, c. 362; 63 Del. Laws, c. 110; 63 Del. Laws, c. 224; 64 Del. Laws, c. 233; 64 Del. Laws, c. 306; 65 Del. Laws, c. 22; 66 Del. Laws, c. 62; 66 Del. Laws, c. 288; 67 Del. Laws, c. 34; 67 Del. Laws, c. 68; 67 Del. Laws, c. 286; 67 Del. Laws, c. 421; 68 Del. Laws, c. 218; 69 Del. Laws, c. 97; 72 Del. Laws, c. 13; 72 Del. Laws, c. 175; 74 Del. Laws, c. 2; 74 Del. Laws, c. 206; 74 Del. Laws, c. 207; 74 Del. Laws, c. 208; 75 Del. Laws, c. 3; 75 Del. Laws, c. 248; 76 Del. Laws, c. 8; 76 Del. Laws, c. 256; 77 Del. Laws, c. 9, § 1, 2, 3; 77 Del. Laws, c. 397; 78 Del. Laws, c. 344;

AN ACT TO REINCORPORATE THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES

The Mayor and City Council of the City of Lewes, as operator of public utilities through its Board of Public Works of the City of Lewes, is hereby authorized and directed to continue the Board of Public Works of the City of Lewes ('BPW') and the BPW is hereby authorized to continue, subject to the jurisdiction, authority and responsibilities provided by this Charter, to establish, to control and to regulate Utility Systems comprised of an electric generation, transmission, and distribution system; water works and distribution system; wastewater collection, treatment facility, and sewer system; storm water drainage system; and other future additional systems and utilities which may be established for the City of Lewes.

SECTION 1: DEFINITIONS.

The following words, terms and phrases, when used in this Charter, shall have meanings ascribed to them in this section:

1. **"Additional Systems"** shall include, but are not limited to, systems for the purpose of furnishing steam, manufactured gas, natural gas, heat, heating oil, energy generation systems, and wired and wireless telecommunications or other communication services and any other utility system which may be established for the City of Lewes.

2. **"Board"** shall mean the Board of Directors of the Board of Public Works as established pursuant to this Charter.
3. **"BPW"** shall mean the Board of Public Works of the City of Lewes.
4. **"City"** shall mean the City of Lewes, Sussex County, Delaware.
5. **"Mayor and City Council"** shall mean the Mayor and City Council of the City of Lewes, Sussex County, Delaware.
6. **"Service Area"** shall mean the corporate limits of the City of Lewes, the territory beyond such limits authorized in this Charter, and any franchised service area.
7. **"Utility System"** shall mean and include electric generation, transmission, and distribution system; water works and distribution system, wastewater collection, treatment facility, and sewer system; storm water drainage system; and other future Additional Systems and utilities which may be established for the City of Lewes.

SECTION 2: BOARD, ELECTIONS AND APPOINTMENTS; OFFICERS.

- 2.1 Board. The administration of the Board of Public Works shall be by a Board of Directors. The Board shall be composed of five (5) elected Directors and one ex-officio person appointed by the Mayor of the City. The terms of each Director shall be for a period of three (3) years commencing at the annual meeting of the BPW following his or her election and continuing until his or her successor is duly elected and qualified, except that the two Directors elected at the 2016 Annual Election shall serve for a term of two (2) years. 80 Del. Laws, c. 102
- 2.2 Annual Election and Term of Office.
 - 2.2.1 On the second Saturday in May annually, successors to the Directors shall be chosen by the voters, qualified as hereinafter provided. At each of said annual elections the qualified voters shall in like manner elect a Director or Directors to serve for the unexpired term or terms of any Director or Directors whose office shall have been rendered vacant in any manner whatsoever.
 - 2.2.2 The annual election shall be called by the President of the Board.
 - 2.2.3 The Board shall designate the place for the annual election which shall be held on the second Saturday of May of each year from 8:00 o'clock in the morning, prevailing time, until 6:00 o'clock in the evening, prevailing time.
 - 2.2.4 A plurality of votes shall elect.
 - 2.2.5 In the event of a vacancy in the office of a Director of the Board, the President of the Board shall appoint a person holding the same qualifications for Director to fill such vacancy until the next annual election of Directors of the Board. Prior approval of such appointment shall be by a majority of the Mayor and City Council. No appointment of Directors of the Board, either originally or to fill vacancies, shall be made from members of the Mayor and City Council; but no person shall be disqualified for election as a Director of the Board at any annual election by reason of holding the office of Council member.
- 2.3 Qualifications of Directors of the Board.
 - 2.3.1 A qualified voter who is a resident for at least three hundred sixty-five (365) days next preceding the date of the Annual Election for Directors of the Board.
 - 2.3.2 At least twenty-one (21) years of age on the date of the annual election for Directors of the Board.
 - 2.3.3 No member of the City Council or the Mayor may serve concurrently on the Board and as Mayor or City Councilperson.
 - 2.3.4 Disqualification. If any Director during his or her term of office shall be found guilty of any crime or misdemeanor and sentenced to imprisonment for any term whatever or shall for any reason cease to be a resident, freeholder or leaseholder of the City, he or she shall forthwith be disqualified to act as a Director, and his or her office shall be deemed vacant and shall be filled as aforesaid.
- 2.4 Filing of Intent to be a Candidate.

No person shall be voted upon as a candidate for the office of a Director of the Board unless he or she shall notify the General Manager of the BPW in writing of his or her candidacy for the office, or five (5) or more persons qualified to vote in the Annual Election may file the name of the candidate for the office of the Director of the Board with the General Manager, provided that the candidate endorses his or her written consent thereon. All such notifications of candidacy shall be filed in the office of the General Manager during the

regular business hours of the Board of Public Works not earlier than the opening of business on February 1 and prior to 4:30 p.m., prevailing time, on the first Thursday in April. 77 Del. Laws, c. 397, § 1

- 2.5 Definition of Freeholder or Leaseholder. For purposes of determining whether a Director of the Board is a freeholder or a leaseholder, the following definitions shall be applicable:
- 2.5.1 A freeholder shall mean any person who holds fee simple title within the corporate limits of the City and said title is of record in the Office of the Recorder of Deeds, in and for Sussex County.
 - 2.5.2 A resident leaseholder shall mean any person who holds public lands under a valid lease from the State of Delaware or from the Mayor and City Council and who has erected on said land an improvement pursuant to the Charter of the City of Lewes.
- 2.6 Qualifications of Voters. At the annual election for Directors of the Board, qualifications for voters shall be as follows:
- 2.6.1 Resident: Every person, male or female, who is a bona fide citizen of the United States and of the State of Delaware and a bona fide resident of the City or on the public lands under the jurisdiction of the City for at least thirty (30) days next preceding the date of the Annual Election; or
 - 2.6.2 Nonresident freeholder or leaseholder: Every person, male or female, who is a bona fide citizen of the United States and who is a freeholder or leaseholder for at least thirty (30) days immediately preceding the date of the Annual Election; or
 - 2.6.3 Other: Every person, male or female, who is a bona fide citizen of the United States and who is a customer of any available utility of the Board of Public Works for at least thirty (30) days immediately preceding the date of the Annual Election; and
 - 2.6.4 At least eighteen (18) years of age on the date of the annual election.
- 2.7 Voter Registration, 'Books'.
- 2.7.1 Resident voters shall be registered on the Book of Resident Voters of the BPW. In the case of nonresident freeholders or leaseholders, they shall be registered on the Book of Non-Resident Voters. In the case of other voters, they shall be registered on the Book of Other Voters.
 - 2.7.2 The Book of Resident Voters shall contain the following information: the names of the registered voters arranged in alphabetical order, the address of the voter, acknowledgment of age qualification, the date the voter became a resident and any other pertinent information.
 - 2.7.3 The Book of Non-Resident Voters shall contain the following information: the names of the non-resident voters arranged in alphabetical order, the permanent address of the voter, the local address of the voter, acknowledgment of age qualification, the date the voter became a freeholder or leaseholder of the City and any other pertinent information.
 - 2.7.4 The Book of Other Voters shall contain the following information: the names of the other voters arranged in alphabetical order, the permanent address of the voter, the local address of the voter, acknowledgment of age qualification, the date the voter became a customer of any available utilities and any other pertinent information.
 - 2.7.5 No person shall be registered upon any Book of Voters unless he or she will have acquired the qualifications to vote in the Annual Election for Directors of the Board for the year in which such person registers.
 - 2.7.6 A person shall be required to register only one (1) time; provided, however, that if a registered voter fails to vote in two (2) consecutive Annual Elections in which there is a contest for Directorship on the Board, his or her name shall be removed from the applicable Book of Voters, and notice sent to said registered voter at his or her last known address by registered or certified mail, with return receipt requested, advising that his or her name has been removed from the applicable Book of Voters, and that it will be necessary to register again in order to vote in the Annual Election.
 - 2.7.7 The Books of Voters shall be maintained in the Office of the General Manager of the BPW and shall be conclusive evidence of a right of any person to vote at the Annual Election.
 - 2.7.8 A person may register at the Office of the BPW during the regular business hours of such office until the close of business of such office on the 15th day prior to the date of the Annual Election for Directors of the Board by completing such forms as may be required.
 - 2.7.9 The Board may provide by resolution for the BPW's office to be open on one (1) Saturday and/or one (1) evening within the thirty (30) day period immediately preceding the date of the Annual Election for the purpose of permitting persons to register to vote in such Annual Election.

- 2.8 Absentee Ballot. The City Council may, by Ordinance, provide for any voter registered to vote in the Annual Election for a Director of the Board to cast an absentee ballot if such person is unable to appear and cast his or her ballot in person. The BPW shall comply with the provisions of such Ordinance in its Annual Election.
- 2.9 Manner of Holding Annual Election. The procedure for holding the Annual Election shall be as follows and the Board may refer for guidance to the State of Delaware Election Law for Municipalities, Title 15, Chapter 75, Subchapter IV of the Delaware Code.
- 2.9.1 The Annual Election shall be conducted by a Board of Election consisting of an Inspector and two (2) Judges together with such alternates and other election officials as are determined by the President of the Board to be necessary, all of whom shall be appointed by the President of the Board with the concurrence of a majority of the Directors of the Board at a regular meeting of the Board prior to the date of the Annual Election. The Board of Election shall determine who is and who is not entitled to vote thereat, taking reasonable steps to see that the law pertaining to the Annual Election receives compliance and for the purpose of counting the votes and certifying the result to all the Board. The Board of Election shall keep a list of all persons who vote at such Annual Election.
- 2.9.2 In the event that no person files or is nominated for each office for which an election is to be held within the time set forth in this Charter, the incumbent shall be deemed to be re-elected for a full term, and it shall not be necessary to hold an election.
- 2.9.3 In the event that only one (1) person files or is nominated for each office for which an election is to be held within the time set forth in this Charter, the person who files or who is nominated shall be deemed to be elected for a full term, and it shall not be necessary to have an election.
- 2.9.4 No person other than the Board of Election, election officials and others permitted by state law, and persons actually voting shall be admitted within the voting place without the consent of the Inspector.
- 2.9.5 Each candidate may appoint some suitable person to act as a challenger who may be within the voting place. Each challenger shall be protected in the discharge of his or her duty by the Board of Election.
- 2.9.6 No person other than the Board of Election, election officials and others permitted by state law, shall remain within fifty (50) feet of the entrance to the building except for the purpose of offering his or her vote; provided, however, that a physically-handicapped person shall be permitted to bring into the election room an elector or two (2) electors if the nature of the disability, in the opinion of the Inspector, such as total disability to walk to the election room, requires it in order to render the necessary assistance.
- 2.9.7 No person shall electioneer or engage in any political discussion within the building during the hours of election or during the counting of the ballots.
- 2.9.8 No more than one (1) person shall be permitted to occupy any voting booth at any one time except as otherwise provided in this Section.
- 2.9.9 No person shall remain in or occupy a voting booth longer than is necessary to prepare his or her ballot and in no event longer than three (3) minutes.
- 2.9.10 Upon the close of the election, the votes shall be read and counted publicly and the persons having the highest number of votes shall be declared to be elected.
- 2.9.11 The Board of Election shall enter in a book to be provided for that purpose minutes of the election containing the names of the persons so elected. They shall subscribe the same and shall make and deliver to the person elected certificates of their election. The book containing such minutes, the ballots and the list of those persons who voted shall be secured by the Board of Election who shall preserve the same and shall be evidence in any court of law or equity.
- 2.9.12 If two (2) or more candidates for the office of Director of the Board shall receive an equal number of votes so that there shall not be an election of a Director, the incumbent Director shall continue in Office until the runoff election as herein provided is held. The Board of Election shall declare the election a tie and shall report that result to the Board which shall, within twenty (20) days after receipt of the report of the Board of Election, hold a Special Election between those candidates where a tie resulted under the same rules as hereinbefore set forth. No person shall be permitted to register to vote following the Annual Election and before the Special Election in order to vote at the Special Election.

SECTION 3: ORGANIZATION.

The Board of Directors, at its annual meeting, held in the same month as the election but not less than seven (7) days after the election, shall swear in newly-elected Directors and organize by the election, from among the Directors of the Board, of a President, Vice-President, Secretary, Treasurer and Assistant Treasurer, each to serve for one (1) year and

until their successors are chosen. Directors of the Board may receive pay or emolument, and be allowed compensation for his or her services and for expenses incurred while executing official duties. The Board shall meet at a date and time it may establish. The Board may establish its rules of procedure. It shall be the duty of the Vice President to preside at all the meetings of the Board of Directors in the event that the President is unable to preside, and to perform such other duties and have such other powers of the President as are prescribed in this Charter or in any rules of procedure established by the Board in the event that the President is unable to serve.

SECTION 4: POWERS AND DUTIES.

- 4.1 The BPW shall have the supervision and control of all the utility systems, and private sanitary sewerage, storm water drainage, water, and electric systems, as established or to be established within the Service Area, and may alter, condemn, repair or remove the same, and may cause new facilities for the utility systems to be made and opened. The BPW may cause any such utility systems to be laid, in its sound discretion, anywhere within the Service Area and in, on or over any of the streets, rights of way, lanes or alleys of the said City and Service Area in such manner and under such terms and conditions as the BPW deems proper and of such material as the BPW may deem proper, and may make proper outlets for the sewer and drainage into any of the streams, creeks, ponds, canals or other waters within the limits of the City or into the Delaware Bay or any of its tributaries or estuaries from any property within the corporate limits of the City; and for the purpose of improving the sewerage and drainage of the City may enter upon and deepen any part of the channel of said waterways, subject to applicable federal and state law.
- 4.2 The BPW may, in its discretion, manage and operate, as the sole provider or in conjunction with any person, firm, association, corporation or entity, one or more utility systems within its Service Area. The BPW shall have the power to enter into contracts in its name.
- 4.3 The BPW shall pay to the City a minimum of two percent (2%) to a maximum of five percent (5%) of the monthly adjusted revenues for utility services (gross revenues for utility services less adjustments made to customer accounts), in lieu of franchise fees, no later than thirty (30) days after the utility bills are mailed to customers each month. The City shall pay monthly out of the general fund of the City to the BPW for utility services, including street lighting, such sum as the BPW may prescribe by tariff.
- 4.4 The BPW shall make rules regulating the public utility systems and the tapping of public electric distribution, water mains and pipes, sewers, drains, and any other utility established by the Board of Public Works, by the owners of abutting lands and shall provide for the granting of permits for the same and for the payment of such tapping or other fees, including but not limited to front-foot assessments, impact fees, and rents, as the Board may deem proper, and it shall prescribe the material of all such private electric lines, water mains and pipes, sewers, storm water and/or drainage systems, or other utility which shall hereafter enter into any public utility system, and shall direct the manner in which they shall be laid or installed.
- 4.5 The BPW is hereby authorized and empowered to do all things necessary for the location, erection, construction, equipment, maintenance and operation of its utility systems as established by the BPW and to provide for the care and maintenance of the same, and to purchase machinery, equipment, and all such apparatus as may be necessary for the purpose of establishing such utility plants or facilities and, to effect this object, shall have the power to lay pipes or other apparatus under or along any public right-of-way, street, land or alley of said City and Service Area or any public roads adjacent thereto.
- 4.6 The BPW may sell its products and services to public and private persons, firms, associations, corporations or entities.
- 4.7 The BPW is hereby authorized to acquire by gift, devise, purchase, exchange or any other method of acquiring real property or any estate, interest, or right therein, provided that such acquisition shall not be made through an exercise of the power of eminent domain.
- 4.8 Whenever the BPW shall deem it necessary and expedient to acquire lands, easements or rights-of-way for any purpose connected with the utility systems, plants or facilities, and such lands, easements or rights-of-way cannot be acquired by agreement between the owner or owners thereof and the BPW, the Board shall direct its Secretary to notify the Mayor and City Council, and thereupon the said Mayor and City Council shall take such lands for the purpose or purposes aforesaid in the same manner and subject to the same conditions and proceedings as are or shall be from time to time provided by law for condemning and taking lands for the purpose of laying out and opening new streets in said City. No petition or application of citizens shall be necessary, but the notice as aforesaid from the Secretary of the BPW shall be ample authority to the Mayor and City Council to proceed as herein provided.

- 4.9 The BPW may enter into contracts and agreements with any public or private person, firm, association, corporation or entity both inside and outside the boundaries of the City and the State:
- 4.9.1 For joint use of property belonging either to the BPW or to the other contracting party or jointly to both parties; and
 - 4.9.2 For the joint acquisition of real and personal property, rights, and franchises, and the joint financing, construction and operation of plants, transmission and distribution lines and other facilities.
- 4.10 The BPW may enact and adopt such rules and regulations as the BPW deems proper in order to supply utilities or regulate the connection and/or access of public utility services or facilities by owners or lessees of abutting properties. Such rules and regulations as shall be adopted in conformity with the provisions of this Charter shall be printed and kept in the office of the BPW for distribution to persons or corporations that make application to connect with, lay or repair any public or private utility system as aforesaid.
- 4.11 The BPW shall fix rates, assessments, and fees for utility systems. Rates shall be competitive, fair, reasonable, compensatory, and with no undue preference or discrimination. Such rates shall be sufficient to provide for conducting and operating the said utility systems and for payment of debt service incurred pursuant to this Charter. The BPW may require reasonable deposits as security for the payment of charges for utility services and may provide for the return of deposits when satisfactory consumer credit has been established.
- 4.12 All utility rents, fees, rates, or assessments laid, imposed or assessed by the BPW for the City remaining unpaid and in arrears for thirty (30) days after they become due, shall be and constitute a lien of five (5) years upon the premises (whether leasehold rights or fee simple title in real estate) to which the utility facilities were connected, or, in the case of front-footage assessments, upon the properties subject to such assessments as hereinafter provided, and all such liens shall have preference and priority to all liens of recognizance, mortgage and judgment on such premises, created or suffered by said owner, although such other lien or liens shall be of a date prior to the time of the attaching of such lien for utility rents, fees and assessments. In case of the sale under execution process of any lands and premises or leasehold interests upon which such liens for utility rent, fees, rates, and assessments shall exist, such lien shall be transferred to the fund arising from such sale in the hands of the officer making the same and the said real estate or leasehold interest so sold shall be discharged therefrom.
- 4.12.1 The lien of any assessment for repayment of long term debt shall remain a lien for a period of as long as the term of the underlying debt and no longer, dating from the expiration of thirty (30) days after the date on which said assessment becomes due and payable.
 - 4.12.2 The BPW shall have the authority to require any or all premises within the corporate limits of the City or Service Area, to be and to remain connected to the municipal utility systems. In any instance in which the owner has refused or failed to make the connection within one hundred twenty (120) days after formal notice from the BPW ordering the property to be connected, the BPW shall have the authority to cause the said connection or connections to be made and to assess all of the expense thereof upon the premises in question. All such costs for tapping fees and connection shall be and constitute a lien upon the premises, dating from the date on which the said work was completed, the lien to be and to endure in accordance with the terms of the provisions applicable to sewer rents, fees, and rates.
 - 4.12.3 Liens on real property for the non-payment of utility rents, fees, rates, assessment charges or any other charge, or fee imposed pursuant to this Section may be recorded in the Office of the Recorder of Deeds, in and for Sussex County, in the following manner. A certificate signed by the President of the BPW attested by the General Manager of the BPW and under the seal of the BPW shall be prepared, containing therein the name of the owner or lessee of the real property and the last known post office address of the said owner or lessee, a description of the property subject to the lien sufficient to identify it, an itemization of the fees or charges constituting the lien, the amount of the fees or charges in arrears and the year or years for which the fees or charges were levied, the date from which interest is to be calculated, and the date when an itemized bill of such fees or charges was sent to the said property owner or lessee. The certificate, when completed, as aforesaid, shall be recorded in the Office of the Recorder of Deeds, in and for Sussex County in the Mortgage Records of the said County and shall be properly indexed by the Recorder. If the said Certificate is recorded, the amount of any fees or charges together with any interest or penalty shall be collected by foreclosure of the lien in the same manner and by the same procedure and subject to the same Rules of the Superior Court relating to pleading and practice as are provided for the foreclosure of a mortgage on real property, or, in the alternative, the BPW may use the monition method used for collection of such rents, fees, rates, assessment or other charge as established for Sussex County and authority is

hereby established for it to do so and with the same costs and charges, together with a collection charge not to exceed five per centum (5%) of the amount of the lien with interest.

- 4.13 All revenues from utilities shall be directed to the provision of utility services and not applied to the general fund of the City, unless the transfer of revenues constitutes a payment of a fixed rental or in lieu of franchise fees or taxes. Any shared BPW/City funds or services shall be accounted for directly and explicitly.
- 4.14 Borrowing:
- 4.14.1 Subject to applicable State laws and the City's Charter, the BPW may authorize the issuance and sale of revenue bonds or other types of indebtedness necessary to finance the acquisition, construction, and improvements for the utility systems and facilities including facilities owned or operated jointly with others.
- 4.14.1.1 The Board shall have the authority to borrow money and issue bonds or certificates of indebtedness and to secure the payment thereof by pledging the revenues derived from the operation of any project for which bonds are issued pursuant to this Section. The Board shall obtain the prior consent of the Mayor and City Council for such borrowing.
- 4.14.1.2 The funds derived from the sale of bonds issued pursuant to this Section may be used for the acquisition, construction, reconstruction, repair, alteration, improvement, extension, financing or refinancing of any utility system and equipment therefor, including transaction costs, redemption premium, interest during construction and working capital for the project, provided that the issuance of such bonds pursuant to this Section shall not constitute a debt of the City nor a pledge of its credit or taxing power and the bonds shall contain on the face thereof a statement to the following effect.
- 'Neither the faith and credit nor the taxing power of the City of Lewes is pledged to the payment of the principal of, premium, if any, or interest on this bond, nor is the City of Lewes in any manner obligated to make any appropriation for payment thereof.'
- 4.14.1.3 All bonds issued pursuant to this Section shall be deemed to be legal investments by any bank, trust company, insurance company, executor, administrator, curator, trustee or any other fiduciary.
- 4.14.1.4 The interest on any bonds issued pursuant to this Section shall be exempt from all taxation by the State of Delaware or by any political subdivision or agency thereof.
- 4.14.1.5 The bonded indebtedness to be issued pursuant to this Section shall not at any time exceed in the aggregate the total sum of two (2) times the net assets of the BPW, and the indebtedness created by any bonds issued pursuant to this Section shall not be used in computing the maximum bonded indebtedness which may be created by the City pursuant to its Charter, nor shall the City be required to levy taxes to pay the principal of or interest on any bonds issued pursuant to this section.
- 4.14.1.6 The bonds to be issued pursuant to this Section shall be authorized by resolution of the Board which shall determine that the issuance of such bonds shall be in the best interest of the BPW. The bond shall bear such date or dates, mature at such time or times not exceeding forty (40) years from their respective dates, bear interest at a rate or rates per annum, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. Bonds of the BPW issued by the Board pursuant to the provisions of this Section may be sold at either public or private sale at such place and interest rates as may be determined by the Board.
- 4.14.1.7 Any resolution or resolutions authorizing any bonds or securing any issue of bonds may contain provisions which shall be part of a contract with the holders of the bonds thereby authorized as to any matter relating to the repayment of the bonds, the security therefor, the operation of the project and any other matter or course of conduct that affect the foregoing.
- 4.14.1.8 Neither the Board nor any person executing the bonds or other obligations shall be personally liable on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.
- 4.14.1.9 In the discretion of the Board, the bonds may be secured by a trust indenture by and between the Board and a corporate trustee which may be any trust company or bank having the powers of a trust company. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be determined by the Board.

- 4.14.2 The BPW shall have the power to borrow temporarily from time to time on the anticipated revenues of the BPW in order to provide for the expenses of maintenance, replacement and operation of the utility systems. Such sum or sums shall not exceed the average revenue of the BPW for the preceding twelve (12) month period in any one (1) fiscal year, when, in the opinion of a majority of the Board, the needs of the BPW demand it. The Board may secure said sum or sums of money so borrowed by promissory notes of the BPW and attested by the Secretary, either with or without the seal of the BPW affixed as is requested by the bank or person advancing the money on said notes, and no officer or Director shall be personally liable for the payment of such notes because they are signed by them as officers of the BPW and are authorized by resolution of the Board; provided, however that any sum of money borrowed on the faith and credit of the BPW, as aforesaid, in any fiscal year shall be paid out of the revenue of the BPW, at the minimum rate of ten percent (10%) per fiscal year and shall be completely paid at the end of ten (10) fiscal years following the first fiscal year which said money was borrowed with interest thereon.
- 4.14.3 Use of general obligation bonds shall require approval by the Mayor and City Council and shall be subject to the procedures of the City's charter.
- 4.15 The BPW may authorize reasonable expenditures to acquaint the public with the policies, operations, programs and plans of the BPW.
- 4.16 The BPW may invest surplus funds of the BPW in securities that are safe and authorized pursuant to the BPW's investment policies and by Board resolution.
- 4.17 The BPW, in addition to the reports and accounting it may otherwise be required by law to make, shall forward to the Mayor and City Council its annual financial report which shall include a balance sheet and a statement of operations, showing the financial condition of the BPW, prepared according to generally accepted public utility accounting principles. The funds and accounts of the BPW shall be audited annually by a certified public accountant, and shall be open to public inspection. The BPW shall also annually prepare a budget forecast for the next fiscal year and furnish a copy to the Mayor and City Council. The fiscal year of the BPW shall be the same as that of the City.
- 4.18 While the Board must retain certain powers to itself, i.e. budget approval, rate setting and long-term indebtedness, it may from time to time delegate in writing other powers to officers or employees responsible to it, as necessary.
- 4.19 It shall be unlawful for the BPW to make or enter into any contract in excess of the amount established by State law, City charter or ordinance for materials, supplies, work or labor for the benefit and use of the BPW with any Director of the Board, member of City Council or the Mayor or with any partnership in which any Director of the Board, member of City Council or the Mayor is a general partner or with any corporation in which any Director of the Board, member of City Council or the Mayor is a director or controlling stockholder or with any firm or company which any Director of the Board, member of City Council or the Mayor is pecuniarily interested, provided that if all the disinterested Directors of the Board shall vote to enter into such contract, then the Board may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.
- 4.20 The BPW is hereby authorized and permitted to supply utility services of any utility system to those properties which are located within two (2) miles of the corporate limits of the City as presently constituted or hereafter extended under such terms and conditions as the Board shall deem proper. The Board is hereby authorized and permitted to enact and adopt such rules and regulations as the said Board may deem proper in order to supply said utility services.
- 4.21 Any property, real or personal, tangible or intangible, purchased with funds of the BPW shall be titled in the name of the BPW and, for real property, shall also be titled jointly with the City.

SECTION 5: ENFORCEMENT.

The BPW is authorized to provide for penalties for violations of its rules and regulations, not exceeding One Thousand Dollars (\$1,000.00) per violation for each day of violation, as well as the BPW's costs and expenses, including its reasonable attorney's fees, which penalties may be imposed and collected by the BPW administratively or in a court of competent jurisdiction, and to provide that such fine or penalty may be applied to each and every violation for each and every day of violation. However, before such penalty may be imposed administratively, there shall be notice and an opportunity to be heard afforded the alleged violator. Such procedures shall be adopted as rules and regulations of the BPW.

SECTION 6: ADMINISTRATION.

- 6.1 The Board is authorized to appoint a general manager and regulate his or her duties, and shall provide for such other employees as may from time to time be necessary
- 6.2 The Board is authorized to engage the services of agents and servants as the said Board may deem proper and necessary for the work herein devolved upon it.

SECTION 7: INDEMNIFICATION.

- 7.1 Indemnification; Defense to be Provided. The BPW shall indemnify, from the general funds of its treasury, to the extent not otherwise covered by the appropriate insurance, any person who is a party to or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigate (other than an action by or in the right of the BPW itself), by reason of the fact that he or she is or was a Director or other duly elected or appointed Board official or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such actions, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the BPW, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Board of Public Works and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.
- 7.2 Monetary Settlement To Be Approved. In the event of a monetary settlement, the Board shall first approve the amount and terms of the settlement before the right to indemnification shall vest.
- 7.3 Determination of Board. Indemnification, as provided in this chapter, shall be made by the Board only as authorized in the specific case upon a determination that indemnification of the BPW and/or officer or official is proper in the circumstances because he or she met the applicable standards of conduct set forth above. Such determination shall be made:
 - 7.3.1 By a majority vote of a quorum of the Board consisting of the Directors who were not parties to such action, suit or proceeding; or
 - 7.3.2 If such a quorum is not obtainable, by independent legal counsel in a written opinion.

SECTION 8: ACTIONS OR SUITS.

No action, suit or proceeding shall be brought or maintained against the City on behalf of the BPW for damages, either compensatory or punitive, on account of any physical injury or injuries, death or injury to property by reason of the negligence, simple, gross, willful or wanton conduct of the said Board, or any of its divisions, officers, agents, servants or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted, within one (1) year from the happening of said injury or the suffering of such damages shall notify the President of the Board and the Mayor of the City in writing of the time, place, cause, character and extent of the injury sustained, so enrolled or damages suffered. Such notice shall be directed to the President of the Board and the Mayor of the City by certified mail with return receipt requested and postage prepaid.

SECTION 9: SURVIVAL OF POWER AND VALIDATING SECTION.

- 9.1 This Charter shall operate to amend, revise and consolidate an Act, entitled: An Act To Authorize the Commissioners of Lewes to Appoint a Board of Public Works for the Town of Lewes Which Shall Establish, Control And Regulate an Electric Light Plant, Water Works And a Sewer System For Said Town; Prescribing the Powers and Duties of Said Board of Public Works and Providing For The Election Of Their Successors" being Chapter 196, Volume 22, Laws of Delaware, and the various amendments and supplements thereto, and to repeal all such parts of said Act and its amendments and supplements as are manifestly inconsistent with the provisions of this Charter.
- 9.2 All powers conferred upon or vested in the Board of Public Works of the Commissioners of Lewes by any Act of Law of the State of Delaware not in conflict with the provisions of this charter are hereby expressly conferred upon and vested in the Board of Public Works of the City precisely as if each of the said powers was expressly repeated in this Charter. All resolutions and regulations adopted by the Board of Public Works and in force at the time of the approval of this Charter shall continue in full force and effect until the same or any of them shall

be repealed, modified or altered by the Board of Public Works under the provisions of this Charter; all the acts and doings of the Board of Public Works or any officers or employees of the Board of Public Works, lawfully done or performed under the provisions of any law of this state or of any ordinance of the City or any rule or regulation of the said Board of Public Works, prior to the approval of this Charter, are hereby ratified and confirmed.

- 9.3 All debts due from the BPW shall be deemed due and the same shall remain unimpaired until paid; and the power right and authority to collect rents, assessments, and fees imposed under the provisions of this Charter, and the processes which may be employed hereunder, shall be deemed to apply and to extend to all unpaid rents, assessments and fees imposed under the Charter of the Board of Public Works established by the Commissioners of Lewes and all amendments and supplements thereto.
- 9.4 The bonds given by or on account of any official of the BPW shall not be impaired by or affected by the provisions of this Charter, but the BPW shall succeed to the benefits of said bonds.
- 9.5 All valid rules and regulations, acts and resolutions heretofore passed relating to or concerning the BPW or authorizing the borrowing of money or relating to the issuance of bonds relating to the payment thereof by the BPW shall be and remain valid and good as heretofore and be unaffected and unimpaired by this Charter.
- 9.6 The Mayor and City Council shall have no authority to cease to operate, or to sell, lease, abandon or in any other way dispose of any public utility owned by it, without a Council vote to call a referendum election concerning sale of the utility. The City will hold a referendum election no sooner than ninety (90) days and within one hundred twenty (120) days which must be passed by a majority of the voters, qualified as for a Board election, voting at the election, to approve said sale. 77 Del. Laws, c. 397, § 2
- 9.7 If any part of this Charter shall be held unconstitutional, such holding shall not in any way invalidate the remaining provisions of this Charter. This Charter shall be deemed and known to be a public act.
- 9.8 Effective Date of this Charter. The Charter shall take effect one hundred and twenty days (120 days) from and after its passage. 77 Del. Laws, c. 10, § 1