

## **Wyoming**

### **1. Name and Territorial Limits.**

The municipal corporation of the State of Delaware shall hereafter be known as 'The Town of Wyoming'. The boundaries of the Town of Wyoming are hereby established and declared as depicted on the most recent map entitled 'Town of Wyoming Municipal Limits' certified and dated by the Mayor and Secretary of the Town Council and of public record in the Kent County Recorder of Deeds Office. Such map shall, from time to time, be updated and revised to reflect intervening changes in the Town's municipal boundaries and duly recorded, but failure to record such map shall not void an annexation.

### **2. General Powers.**

The inhabitants of the Town of Wyoming, within the limits and boundaries referred to in section 1 of this Act, or within the limits and boundaries hereafter established, shall be and they are hereby created a body politic and corporate in Law and Equity by the Corporate name of 'The Town of Wyoming' (hereinafter 'Town'), and under that name shall have perpetual succession; may have and use a corporate seal, which may be altered, changed or renewed at pleasure; may sue and be sued; may plead and be impleaded in all Courts of law and equity in the State of Delaware, and elsewhere, by said corporate name, may hold and acquire by purchase, gift, devise, lease or by condemnation real property and personal property within or without its boundaries for any municipal purposes, in fee simple or for lesser estate or interest, and may sell, lease, hold, manage and control such property as its interest may require, subject however to other sections of this Act.

### **3. Structure of Government; Qualifications for Town Council; Compensation.**

#### **3.1. Structure.**

The government of the Town and the exercise of all powers conferred by this Charter shall be vested in a Town Council composed of a Mayor and four Council members, all of whom shall be elected at large by the qualified voters of the Town.

#### **3.2. Qualifications.**

Candidates for Mayor and members of the Town Council must be at least 21 years of age by the date of the election, a citizen of the State of Delaware, a qualified elector, and a bona fide domiciliary of the Town for at least one year prior to the date of the election. For purposes hereof, a 'bona fide domiciliary' shall mean that a person: (a) has his/her true, fixed, and permanent home and principal establishment in the Town to which, whenever he/she is absent, he/she has the intention of returning, and (b) physically resides in the Town on a continuing basis; provided that absence for less than ninety days at a time from one's place of domicile for some temporary purpose shall not terminate that domicile so long as the intention to return to that place remains fixed, certain, and constant during the period of such physical absence. No person having been convicted of a felony, of any crime involving moral turpitude, of any crime of dishonesty, or of any crime involving fraud, bribery, or embezzlement, shall be qualified for the office of Town Council or Mayor.

#### **3.3. Term of Office.**

Each member of the Town Council shall serve a term of two years with the exception of the Mayor. Beginning with the annual election held in the year 2011, the Mayor shall serve a term of three years.

#### **3.4. Compensation.**

The Mayor and each member of Council may be compensated for attendance at any regular or special meeting of the Council as provided by resolution of the Town Council. The Mayor and each member of Council shall be reimbursed for their documented out-of-pocket expenses incurred by them in carrying out the responsibilities of their office if approved by resolution of the Town Council.

### **4. Manner of Holding Elections and Making Nominations.**

#### **4.1 Time, Place, and Notice of Annual Elections.**

The annual municipal elections shall be held on the last Saturday in the month of February. The polls shall be open for no less than seven (7) hours at such place as shall be determined by the Council. Notice of elections shall be posted in five (5) public places and in two (2) local newspapers no later than twenty (20) days prior to the election date. The notice of elections shall include the date, time, and place of the

election, the candidates for each office, and qualifications to vote. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the notice of elections. All election notices shall be posted in accordance with 15 Del.C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law.

#### 4.2 Notice of Solicitation of Candidates; Notice of Candidacy.

Notice of solicitation of candidates shall be posted conspicuously within the municipality twenty (20) days prior to the filing deadline for the offices up for election and shall include the term or terms of each offices up for election, the deadline and procedure for declaring candidacy for an office up for election, and the qualifications for holding each office. In order to be listed on the ballot at any town election, each candidate shall file a written and signed notice of intention to seek office with the Secretary of the Council, on a form prescribed by the Town, no later than 4:30 PM on the last Friday in the month of January immediately preceding the election (the 'filing deadline'). Such form shall contain an affidavit that the candidate meets all the qualifications for office. No later than one (1) business day following the last Friday in January immediately preceding the election, the Town shall submit the names of candidates for each office up for election to the Department of Elections. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the notice of solicitation of candidates.

#### 4.3 Determinations Concerning Qualifications.

If the Secretary of the Council determines that a candidate may not meet the qualifications for office, the Secretary of the Council shall notify the Mayor who shall call a special meeting of the Town Council to be held not less than twenty-one (21) days prior to the date set for the election, at which the Town Council shall decide the matter. The candidate whose qualifications are at issue shall be notified, by registered mail, of the date, time and place of the hearing, at which he or she may appear and testify. If the Town Council determines that the candidate does not meet the qualifications for office, it shall reject his/her notice of intention to seek office and his or her name shall not appear on the ballot. In making the determination, only those members of the Town Council who are not competing for that seat shall be entitled to vote on the question.

#### 4.4 Filing Certificate of Intention and Statement of Organization.

All candidates shall file a Certificate of Intention or Statement of Organization if either is applicable and required under 15 Del.C. Ch. 75 ("Municipal Elections") as those provisions may from time to time hereafter be amended, or with any future corresponding provision of law.

#### 4.5 Compliance with State Regulations.

The Town is hereby authorized to act in accordance with the state laws governing municipal voting found in 15 Del.C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law, and the Town shall implement the election provisions found in this Charter in accordance with the same state laws governing municipal voting.

#### 4.6 Voter Qualifications.

Any person shall be qualified to vote who, on the date of the election:

- (1) is a United States citizen;
- (2) has attained eighteen (18) years of age;
- (3) has been continuously domiciled in the Town for at least thirty (30) days immediately preceding the date of the election;
- (4) has not been adjudged a mentally incompetent person by a court of competent jurisdiction; and
- (5) has not been disenfranchised pursuant to sections 3 or 7 of Article V of the Constitution of the State of Delaware.

Persons appearing to vote shall present proof of identity and address pursuant to 15 Del.C. Ch. 75 ('Municipal Elections'), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. For purposes hereof, a person is "domiciled" in the Town when he/she physically resides within the corporate limits of the Town with the actual intent to make that residence his/her fixed and permanent home; however, any person who is enlisted or engaged in any government service of the United States or any military organization of this State of the United States, which service requires him/her to reside outside the limits of the Town, shall be considered to be a domiciliary of the

Town during the period of his/her service so long as it remains his/her actual intention to retain Wyoming as his/her fixed and permanent home.

#### 4.7 Voter Registration.

The Town Council may enact such ordinances concerning the registration of qualified voters for municipal elections in the Town as it deems reasonably necessary to provide for the orderly and efficient conduct of municipal elections; provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor shall any such ordinances unduly impair the right to vote in a municipal election. If the Town does not enact such an ordinance, the Town may adopt the voter registration list provided by the Kent County Board of Election.

#### 4.8 Voting Machines.

Elections shall be by voting machines provided by the Department of Elections in accordance with 15 Del.C. Ch. 75 ('Municipal Elections'), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law.

#### 4.9 Absentee Voting.

The Town Council may, by ordinance, provide for a qualified voter (duly registered if required by ordinance) who shall be unable to appear in person, to cast his or her ballot at any municipal election by absentee ballot. All absentee voting authorized by the Town or by state statute, including all notices of absentee voting, shall be conducted in accordance with 15 Del.C. Ch. 75 ('Municipal Elections'), as it may be hereby amended from time to time, and any other existing or future corresponding provision of law.

#### 4.10 Rules Governing Conduct of Elections.

The Town shall follow the rules governing the conduct of elections found in 15 Del.C. Ch. 75 ('Municipal Elections'), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the conduct of elections.

#### 4.11 Election Board.

Every election shall be held under the supervision of an Election Board. The Election Board shall consist of three (3) or five (5) persons (as determined by the Town Council) who shall be qualified electors of the Town and shall not be an elected official or candidate or an immediate family member of such (mother, father, son, daughter, brother, sister, including half-brothers and sisters, step-family members and in-laws) and who shall be appointed for that purpose by the Town Council at least twenty (20) days before such election. The term of the Board of Elections shall correspond to the election for which the board was appointed and shall expire once all matters relating to the election have been resolved. Each board member shall be confirmed and have his/her name and contact information publicly posted in accordance with the 15 Del.C. Ch. 75 ('Municipal Elections'), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. If, at the opening of the polls, there shall not be present the members of the Election Board, then in such case the ranking town officer available at the opening of the polls shall appoint a qualified voter or voters to act as a member or members of the Election Board to fill such vacancies caused by the absence of the previously-appointed members of the Election Board through the conclusion of the election. Members of the Election Board shall be the sole and final judges of the conduct of the election and of the legality of the votes offered. The Election Board shall keep a list of all voters voting at said election. The Election Board shall have the power to subpoena persons, and officers of the Town, and books, records and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered.

#### 4.12 Election Results.

Upon the close of the election, the Election Board shall count the votes, and the candidates having the highest number of votes for each office shall be declared, by the Election Board, to be duly elected to such office. All recounts and contests of an election shall be conducted pursuant to 15 Del.C. Ch. 75 ('Municipal Elections'), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law.

#### 4.13 Ties.

In the event of a tie vote for any office, the Election Board shall determine such tie by the toss of a coin.

#### 4.14 Preservation of Ballots and Records.

The Election Board shall enter in a Book to be provided for that purpose, minutes of the election, containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of the Election, which Book, containing such minutes, shall be preserved by the Council, and shall be evidence in any Court of Law and Equity. All ballots cast and the records of the Elections shall be preserved in the custody of the Election Board for a period of thirty (30) days, unless the election is contested or an appeal is filed in a court of appropriate jurisdiction, in which case such ballots and records shall be preserved until further direction of the reviewing body or court having jurisdiction.

If there is no contest for the election, the qualified nominees shall be declared duly elected for the full term for which he or she filed, and no election need be held. The Election Board shall accordingly record the results in the Book containing the records of the said election. 79 Del. Laws, c. 108

#### **5. Annual Organizational Meeting of Council.**

- 5.1 The Town Council shall meet to organize as soon as practicable after the sixth day after the certification by the Election Board of the results of an annual election.
- 5.2 Before a newly-elected member of the Town Council enters upon the duties of the member's office, the member shall take an oath to faithfully and impartially perform the duties of the member's office. The oath may only be administered by a notary public, justice of the peace, elected state or county official, or a holdover member of the Council.
- 5.3 After the Town Council is organized under this section, the Council shall hold meetings as provided under Sections 6 and 13 of this charter. 83 Del. Laws, c. 15, § 1

#### **6. Special Meeting, Waiver of Notice.**

Special meetings shall be called by the Secretary upon the written request of the Mayor or upon the written request of any two members of Council, stating the day, hour and place of the special meeting requested and the subject or subjects proposed to be considered thereat. The Secretary shall thereupon give written notice to the Mayor and to each member of Council of the day, hour and place of such special meeting and of the subject or subjects proposed to be considered thereat. Such notices of the Secretary must be emailed or hand-delivered to each Council member or deposited in the U. S. mail in the main post office in the Town of Wyoming at least forty-eight hours prior to the time set for such special meeting, provided, however, that a written waiver of such notice, signed by the Mayor and all other members of Council prior to or immediately upon the convening of such special meeting, shall make such forty-eight hour 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. The Town Council of the Town of Wyoming shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Council has at regular meeting. 79 Del. Laws, c. 108

#### **7. Quorum and Vote Necessary to Take Action.**

That in the general performance of their duties, and particularly in the expenditure of moneys of the Town, the acts, doings and determinations of a majority of the entire Council shall be as good as the acts, doings and determination of all of the members of Council, but if a lesser number be present at any regular or properly called special meeting, they 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 adopted by a majority of the entire Council. No ordinance, resolution, motion, order or other act of Council, except as immediately hereinabove provided for, shall be valid unless it received the affirmative vote of a majority of all members elected to Council.

#### **8. Rules and Minutes of Council.**

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.

#### **9. Vacancies.**

The office of the Mayor or any Council member shall become vacant upon death, resignation, lawful removal from, or forfeiture of office. The remaining members of the Council and Mayor shall appoint another qualified person to fill the vacant seat in accordance with section 11.

**10. Forfeiture of Office.****10.1 Forfeiture.**

A forfeiture of office shall occur when the Mayor or any Council member:

- (a) is convicted, or is determined to have been previously convicted, of a felony, of any crime involving moral turpitude, of any crime of dishonesty, or of any crime involving fraud, bribery, or embezzlement by any court of competent jurisdiction;
- (b) fails to attend three regular meetings of the Council over the course of a twelve-month period without being excused by a majority of the remaining council members;
- (c) lacks at any time during his or her term of office any qualification for the office as prescribed by this Charter or by law; or
- (d) knowingly or willfully violates any material provision of this Charter.

**10.2 Determinations Concerning Forfeiture.**

Where the conditions set forth in sections 10.1. (a) or (b) occur, forfeiture shall be automatic. Where the conditions set forth in sections 10.1 (c) or (d) are alleged to have occurred, a preliminary determination concerning such forfeiture shall be made by the remaining members of the Council and the Mayor. Discussion concerning such possible forfeiture may be had in executive session, but if a majority of the remaining members of the Council and the Mayor subsequently vote in open session to charge a forfeiture of office, written notice thereof, stating the specific grounds for such preliminary determination, shall be provided to the affected Council member or Mayor who shall have ten days from the date of such written notice to make written demand for a hearing before the Council at which the affected Council member or Mayor may appear with or without the assistance of legal counsel to respond to such preliminary determination. Such hearing shall be open to the public and shall be held within twenty days from the date of the written demand for such hearing. The remaining members of the Council and the Mayor shall, in connection with any hearing held hereunder, have the authority to subpoena witnesses, administer oaths, take testimony and require the production of documentary or other physical evidence. If a majority of the remaining members of the Council and Mayor determine, at the conclusion of such hearing, that a forfeiture has occurred, that determination, and the reasons therefore, shall be reduced to writing or recorded in the minutes. Such determination shall be final and effective immediately.

**10.3 Failure to Request Hearing as a Bar.**

Failure of any Council member or the Mayor to demand a hearing as provided above shall be an absolute bar to his/her right to challenge the preliminary determination of the remaining members of the Council and Mayor.

**11. Filling Vacancies.**

- 11.1 When a vacancy in the office of Mayor or member of Town Council occurs under Section 9 or 10 of this charter, the remaining members of the Town Council may elect another qualified individual to fill the vacancy until the next annual election.
- 11.2 At the next annual election, the qualified voters of the Town shall elect a qualified candidate to fill the vacancy for the remainder of the original term.
- 11.3 Each vacancy must be separate and distinct from any other vacancy and from the full term seats to be filled at the election and must be so designated on the ballot.
- 11.4 The written notice of candidacy for election to fill a vacancy under this section must specify the vacant seat for which the notice of intention to run is made.
- 11.5 A candidate may not file a notice of intention to run for more than one seat.
- 11.6 The candidate receiving the highest number of votes for each vacancy is to be declared the winner. 83 Del. Laws, c. 15, § 2

**12. Contracts with the Town.**

Contracts with the Town and other conflicts of interest are governed by 29 Del.C. Chapter 58 ('Laws Regulating the Conduct of Officers and Employees of the State'), as the same may from time to time hereafter be amended, or in accordance with any future corresponding provision of law. Any town official or employee shall file a disclosure with the Public Integrity Commission pursuant to 29 Del.C. Ch. 58 before entering into a contract with the Town that is not prohibited as being with the town agency of the employee or official (i.e. a council member cannot contract with the council). All contracts that would otherwise violate 29 Del.C. Ch. 58 shall not be entered into without the written approval of the State Public Integrity Commission or the Town of Wyoming Integrity Commission, if such Commission exists within the Town.

### **13. Regular Meetings of Council.**

The Council of the Town of Wyoming shall hold regular meetings once a month at such times as may be prescribed by the ordinance and resolution at the Town Hall, or at such other suitable place in said Town as the Council may select, but in the event of a temporary change in the place of meeting, notice shall be posted in five (5) public places plainly stating the new place of meeting selected by Council, and the day and hour of such meeting. The agenda for regular meetings of council shall be posted in accordance with 29 Del.C. Ch. 100 ('Freedom of Information Act'), as the same may from time to time hereafter be amended, or in accordance with any future corresponding provision of law.

### **14. Officers.**

#### **14.1 Appointment.**

- 14.1.1 The Mayor of the Council shall be a member of the Council.
- 14.1.2 The Town Council shall, at the annual organizational meeting held under Section 5 of this charter, organize by electing a Vice Mayor, a Secretary, and a Treasurer.
- 14.1.3 The Town Council shall designate a Town Finance Clerk, who shall also be the Collector of Taxes.
- 14.1.4 The Council shall appoint a Town Solicitor, a Town Clerk, and an Auditor.
- 14.1.5 The Mayor and Council shall also elect and appoint such other officers, employees, or agents of the Town which the Council deems proper and necessary for the proper conduct and management of the Town.
- 14.1.6 Except as otherwise provided under Sections 14.10 and 14.11 of this charter, an appointed officer, employee, or agent hired without an employment contract is employed on an at will basis and may be removed by the Town Council at any time, with or without cause. 83 Del. Laws, c. 15, § 3

#### **14.2 Compensation.**

The Council shall by ordinance fix the salaries and compensation of employees, officers and agents of the Town and the time and manner of his or her payment; which salaries or compensations shall not be increased during the terms of said office. No officer, employee, or agent of the Town shall in any form have, take, or receive from the Town any compensation in any form in addition to the salary or compensation fixed by Council.

#### **14.3 Employment Records.**

The Council shall cause to be kept a full and complete record of all officers appointed and employees and agents hired by the Town containing the names of such officers, employees, and agents, the dates and term of their appointment or employment, the salary or compensation and the date of the termination of service.

#### **14.4 Duties and Power of Mayor.**

- 14.4.1 The Mayor shall preside at all meetings of Council; shall serve as the head of the Town government for all ceremonial purposes and for purposes of military law; shall appoint all committees, subject to Council confirmation, and shall have general superintendence of all municipal affairs.
- 14.4.2 The Mayor shall receive complaints of violations of laws or ordinances and present the complaints to Council at its first meeting thereafter for action of Council. Notwithstanding this paragraph 14.4.2, action to enforce the laws or ordinances of the Town may not be invalidated as a result of the complaint not being presented to the Town Council.
- 14.4.3 The Mayor shall sign all warrants on the Treasurer for the payment of any Town money and shall perform such other duties as may be prescribed by Resolution or Ordinance of Council.
- 14.4.4 The Mayor has the same right as other officers and Council members to vote on all matters and may, at any time, appoint another officer or Council member to preside if the Mayor desires to make a motion,

move the adoption of a resolution, second either, or debate any question from the floor and may, thereafter, immediately resume the Mayor's duties as presiding officer.

- 14.4.5 For purposes of voting or establishing a quorum, the Mayor is to be counted as a member of Council.
- 14.4.6 If the Mayor is incapacitated from acting by reason of absence, or for any other cause whatsoever, then all powers and duties conferred and imposed on the Mayor by this charter, or any other law, resolution, or ordinance adopted or enacted by Council is to be exercised and performed by the Vice-Mayor chosen by Council as acting Mayor for the period of the incapacity.
- 14.4.7 The Mayor is to serve a term of 3 years.
- 14.4.8 The Mayor may act on behalf of the Town, without prior Council approval, if a sudden emergency occurs requiring prompt action to protect the public health, safety, and welfare of the Town and its residents and property owners.
  - 14.4.8.1 As used in paragraph 14.4.8 of this section, "sudden emergency" includes all of the following:
    - 14.4.8.1.1 A major fire or conflagration.
    - 14.4.8.1.2 Significant flooding.
    - 14.4.8.1.3 A serious storm threatening significant damage.
    - 14.4.8.1.4 A civil disturbance.
    - 14.4.8.1.5 A toxic spill.
    - 14.4.8.1.6 An emergency situation declared by a county, state, or federal agency having jurisdiction over the Town and the scope of the emergency includes the Town.
  - 14.4.8.2 If reasonably possible, the Mayor shall notify each council member, in writing, by U.S. mail, personal delivery, fax, or email of the action taken under paragraph 14.4.8 of this section within 48 hours. Notice is complete by depositing the notice in the U.S. Mail, proper postage affixed, to each council member at the member's last known address, by personal delivery, or by confirmation of receipt of a fax or an email transmission.
  - 14.4.8.3 An action taken by the Mayor under paragraph 14.4.8 of this section is as good as the act of the entire Council. However, the Council may at a regular or special meeting held within 15 days of the Mayor's action, cancel the further implementation of any such action not yet completed and notify any persons or legal entities affected. 80 Del. Laws, c. 239, § 1; 83 Del. Laws, c. 15, § 4;

#### 14.5 Secretary.

The Secretary shall oversee the recording of all the proceedings of the Council and keep a correct journal of the same in a book to be provided for that purpose; and shall file and keep in a safe place the Seal of the Town and all papers, and documents, relative to the affairs of the Town, and deliver the same to his/her successor in office. The Secretary shall attest the seal of the Town when authorized by Council, and shall perform such duties and have such other powers as may be prescribed by ordinance. All records, books, papers and documents in the custody of the Secretary shall be always open for the inspection of Council and the public under such regulations as Council may prescribe.

#### 14.6 Treasurer.

The Town Treasurer, before entering upon the duties of his/her office, shall be sworn or affirmed to faithfully and honestly perform the duties of his/her office, which oath or affirmation shall be administered by the Mayor, or acting Mayor. The Town Treasurer, before entering upon the duties of his/her office, shall also give bond to the Town of Wyoming, with sufficient surety in an amount reasonably determined by the town council, but not being less than the sum of Thirty Thousand Dollars (\$30,000.00), conditioned for the faithful discharge of the duties of his/her office and for the payment to his/her successor in office of all sums of money belonging to said Town, which may remain in his/her hands upon the settlement of his/her accounts, to which bond and condition shall be annexed a warrant of Attorney for the confession of judgment. The Treasurer shall pay all orders drawn on him/her by order of said Council and signed by the Mayor thereof, out of any moneys in his/her hands belonging to said Town. He/She shall settle his/her accounts with said Council annually by the end of the fiscal year, and at such other times as Council may require. The Town Treasurer shall not be required to give bond to the Town of Wyoming if the Town has a Public Employee Bond with surety in an amount not less than One Million Dollars (\$1,000,000) that covers the Town Treasurer.

#### 14.7 Collector of Taxes.

The Collector of Taxes shall be the Town Finance Clerk, who shall be twenty-one (21) years of age or older at the time of appointment. It shall be the duty of the Town Finance Clerk to collect all Town taxes,

and to pay the same into the Town treasury. It shall be the duty of the Collector of Taxes to collect all Town taxes, and to pay the same into the Town treasury, as herein otherwise provided.

The Town Collector of Taxes, before entering upon the duties of his/her offices, shall give bond to the Town of Wyoming, with sufficient surety in an amount reasonably determined by the town council, but not being less than the sum of Thirty Thousand Dollars (\$30,000.00), conditioned for the faithful performance of the duties of his/her office and the payment to the Treasurer' of said Town of all moneys collected by him/her belonging to said Town from taxes, and for the settlement of his/her accounts with the Treasurer of the Town at the end of each fiscal year, and at such other times as Council may require, to which bond and condition there shall be annexed the usual full warrant of attorney for confession of judgment for said penalty.

The Town Collector of Taxes shall not be required to give bond to the Town of Wyoming if the Town has a Public Employee Bond with surety in an amount not less than One Million Dollars (\$1,000,000) that covers the Town Collector of Taxes.

#### 14.8 Auditor.

An Independent Auditor shall be appointed by the Town Council at the end of each fiscal year and it shall be his/her duty to audit the accounts of the Town and all of its officers whose duty involves the collection, custody and payment of the moneys of the Town. The Independent Auditor on or before the first business day in the month of April next following his/her appointment shall make and deliver a detailed report of all and every of the accounts, records and books by him/her examined and audited, which copies of said report shall be posted in five public places in the Town. The Independent Auditor in the performance of his/her duties shall have access to all records of Council and records of the officers of the Town; and is authorized and empowered to employ such clerks or accountants as in his/her judgment may be necessary for the proper performance of his/her duties.

#### 14.9 Town Solicitor.

The Council shall select a Town Solicitor who shall be a member of the Bar of Kent County. It shall be his/her duty to give legal advice to the Council and other officers of the Town, and to perform other legal services as may be required of him/her by the Council.

#### 14.10 Police Officers.

The Council may appoint Police Officers whenever the Council may deem it wise to do so. The Council shall from time to time make rules and regulations as may be necessary for the organization, government, and control of Police Officers and the Chief of Police. Police Officers shall be subject to the Chief of Police, and may be dismissed, demoted, or otherwise disciplined by the Council in accordance with 11 Del.C. Ch. 92 ('Law-Enforcement Officers' Bill of Rights') as may be hereafter amended or in accordance with any future corresponding provisions of law. The Police Officers shall preserve peace and order and shall compel obedience within the Town limits to the ordinances of the Town and the laws of the State of Delaware. The police force shall have such other duties as the Council may from time to time prescribe. Police Officers shall be vested within the town limits with all the powers and authority of a Constable of Kent County and shall have the power to make arrests for all motor vehicle and traffic violations within the limits of said town.

Within the Town limits of the Town of Wyoming, each Police Officer shall have all the powers and authority of a State Peace Officer and shall be conservators of the peace; 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 Council, and all criminal laws and motor vehicle laws enacted by the State of Delaware; they shall suppress riotous, disorderly, or turbulent assemblages of persons, in all public ways and places of the Town; and upon view of the above or upon view of any violation of any ordinance of the Town relating to the peace and good order thereof, Police Officers shall have the right and power to arrest without warrant. In the case of pursuit of an offender, the power and authority of the police force shall extend outside the territorial limits of the Town and to any part of the State of Delaware.

#### 14.11 Police Chief.

14.11.1 The Council may appoint a Chief of Police.

14.11.2 The Chief of Police shall be subject to the direction of the Council, and may be dismissed, demoted, or otherwise removed by the Council under Chapter 93 of Title 11 of the Delaware Code (regarding police chief due process), as amended, or any future corresponding provision of law.



14.11.3 The Chief of Police is responsible for the operational control of the daily routine and responsibilities of the police force. However, the authority of the Chief of Police is subordinate and answerable to the Mayor and the Council.

14.11.4 The Council may hire the Chief of Police under the terms of an employment contract, and the Council may elect to not renew the Chief of Police's employment contract without a finding of just cause or holding a hearing under Chapter 93 of Title 11 of the Delaware Code, as amended, or any future corresponding provision of law. 83 Del. Laws, c. 15, § 5

**14.12 Town Manager.**

14.12.1 The Town Council may appoint a Town Manager to be the Chief Administrative Officer of the Town at such compensation as determined by the Town Council. The Town Council shall establish the necessary qualifications to serve as Town Manager, but neither the Mayor nor a member of Council may be appointed as Town Manager during that individual's term of office.

14.12.2 The Town Manager may be employed as an at will employee or subject to the terms of an employment contract.

14.12.3 The Town Manager is responsible for the proper administration of the affairs of the Town of Wyoming as prescribed in this charter, an employment contract, or any ordinances or resolutions of the Town Council.

14.12.4 On the death, resignation, temporary absence or disability, or removal from office of the Town Manager, the Town Council may designate a qualified individual as Acting Town Manager to perform the duties of the office during the Town Manager's absence or disability or until another Town Manager is appointed. 79 Del. Laws, c. 108; 83 Del. Laws, c. 15

**15. Assessment of Taxes.**

(A) The Town Council shall adopt the appraised values implicit in the assessments established by Kent County for all property located within the corporate limits of the Town of Wyoming. The appraised values implicit in the appraisals established by Kent County shall be conclusive for purposes of levying Town taxes, and the Town Council shall have no authority to hear appeals under subsection (D) of this section 15 regarding same.

(B) Additions to Tax Bills. The Town Council shall annually, prior to the posting of the assessment list, by resolution, provide for the Town Finance Clerk a list of any and all charges, costs or other assessments owed to the Town, which charges, costs and assessments shall include, but not be limited to, the following: curb and gutter assessments, weed and grass cutting bills, trash collection bills, and any charges incurred by the Town in bringing a property into compliance with the Town Code, following notice and an order to correct any violations to the property owner, any appeal process, and the failure of the property owner to correct the violation within the time allowed. Said amounts, when adopted and set forth by resolution of the Mayor and Council, shall be shown on all the copies of the assessments posted pursuant to the provisions of paragraph C below.

(C) The Council shall, prior to the first day of June in each year, cause a copy of the assessment to be made available for public review at Town Hall and on the Town website, and there to remain for the space of ten (10) days for public review and information. Notice of the assessment's availability for review at Town Hall and on the Town website shall be posted in four (4) public places in the Town. The notice shall state the day, hour and place that the Council will sit as a Board of Revision and Appeal.

(D) At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise additions made to tax bills under subsection (B) of this section 15 above, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to, and take from the said additions. The decision of a majority of the Council shall be final and conclusive with respect to the additions to tax bills; and no member of Council shall sit on his/her own appeal.

(E) The Kent County assessment, and any additions to tax bills made by the Town, as revised and adjusted by a majority of the Council, shall be the basis for the levy and collection of the taxes for the Town.

(F) The Council shall also have the right to levy and collect taxes upon all telephone lines, gas lines, power poles, or other erections of like character erected within the limits of the Town, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, at the same tax rate as applied to real estate. In case the owner or lessee of such poles or erections shall refuse or neglect to pay the taxes that may be levied thereon, the said taxes may be collected by the Collector of Taxes as in the case of other taxes.

(G) Notwithstanding any zoning designation, no farmlands hereby included within the limits of the Town of Wyoming shall be subject to any Town tax unless, and until, final subdivision approval is granted by the Town.

- (H) After passage of the Town's budget, the Council shall determine and fix a rate of taxation which will produce approximately the amount of money necessary to defray the expenses of the Town for the ensuing budget year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.
- (I) The limit of the amount to be raised by taxation under this section shall not exceed the sum of \$1,500,000 in any one year clear of all delinquencies and expenses of collection. 80 Del. Laws, c. 239, § 1
- (J) Supplemental Assessment. In addition to the annual assessment provided for in this section, the Town may, at the option of the Town Council, prepare quarterly supplemental tax assessments, which are to be based on quarterly supplemental tax assessments prepared by Kent County, for the purpose of adding property not already valued and included in the last assessment and revising the valuation and assessment of all real property which has undergone some significant change of condition that materially changes the true market value thereof since the last assessment. The Town Finance Clerk shall allow a 3% discount on supplemental taxes paid within 30 days of the mailing of a supplemental tax invoice. Supplemental taxes paid more than 90 days after the mailing of a supplemental tax invoice are to be assessed penalties and subjected to the collection procedures under Section 17 of this charter. 83 Del. Laws, c. 15, § 7

#### 16. Exemption of Property from Taxation.

The Town Council shall have the power and authority to exempt, by ordinance, such real property from the Town's property tax as, in the opinion of the Town Council, will best promote the public welfare. Without limiting this power by the following enumeration, the Town Council shall have the power to exempt from or reduce the rate of taxation on the real property and improvements:

- (A) of any person, firm, association or corporation engaged in any manufacturing business within the limits of the Town meeting such conditions as the Council shall establish (e.g. number of persons employed, minimum wages, benefits, and hours);
- (B) newly-annexed into the Town, upon such conditions as the Council shall establish (e.g. exemption to terminate upon issuance of building permit, transfer of title, or expiration of specified time limit, not to exceed seven years);
- (C) of any person 65 years of age or older residing on real property owned by such person (or such person's spouse) in the Town in accordance with 22 Del.C. Chapter 10 or any future corresponding provision of law;
- (D) of any person determined to be "totally disabled" (in accordance with such standards of general application as adopted by the Town Council) residing on real property owned by such person (or such person's spouse) in the Town.

#### 17. Collection of Taxes and Other Charges.

- 17.1 The Town Finance Clerk shall prepare the annual assessment list of real property assessments. The list must be prepared from the warrant otherwise referred to in this subsection, and the assessment list must be made part of the minutes of the Town Council meeting in which it was presented. On or before the first day of July in each year, the Council shall deliver to the Town Finance Clerk a list containing the names of the taxables of the Town, opposite the name of each the amount of the taxable's property assessment, the tax upon the whole of the taxable's assessment, and the rate per hundred dollars. The list or assessment must also include the list of any and all charges, costs, or other assessments owed to the Town, including curb and gutter assessments, weed and grass cutting bills, trash collection bills, and any charges incurred by the Town in bringing a property into compliance with the Town Code. Attached to the list must be a warrant, under the seal of the Town of Wyoming, signed by the Mayor and attested by the Secretary, commanding the Town Finance Clerk to make collection of the taxes and other charges, costs, or assessments as stated and set forth in the list.
- 17.2 All taxes laid or imposed under this charter by the Council of the Town of Wyoming, as well as charges, costs, including costs of collection, or other assessments added to the assessment list under subsection 17.1 of this section are, constitute, and continue as a lien upon all the real estate of the taxable against or upon whom the taxes, charges, costs, or other assessments are laid or imposed of which the taxable was seized at any time after the taxes, charges, costs, or other assessments have been levied and imposed, situated in the Town of Wyoming, for a period of 10 years from the first day of July of the year in which the taxes, charges, costs, or other assessments have been imposed. If the real estate remains the property of the person who was the owner at the time it was so assessed, the lien continues until the taxes, charges, costs, or other assessments are collected in full. The lien of the taxes, charges, costs, or other assessments have priority over all other liens

except as provided under § 2906(b) of Title 25 of the Delaware Code, as amended, or any future corresponding provision of law.

- 17.3 All taxes when and as collected by the Town Finance Clerk are to be paid to the Town Treasurer and all taxes are due and payable at and from the time of the delivery of the tax list to the Town Finance Clerk. The Town Finance Clerk shall allow a 3% discount on every tax paid before the first day of August in each year. The Town Finance Clerk may not allow a discount on taxes paid on or after the first day of August. To every tax paid after the thirtieth day of September in each year, there is to be added and collected 1% for every month or fraction of a month after the thirtieth day of September that the tax remains unpaid. The 1% penalty applies to any additional costs, charges, or assessments added to the tax bill under this section. The Town Council may make just allowances for delinquencies in the collection of taxes. Before exercising any of the powers granted by this section for collection of taxes, notices must be given to the taxable of the amount due.
- 17.4 Except as provided otherwise by this section, Chapter 87 of Title 9 of the Delaware Code (regarding collection of delinquent taxes), as amended, is deemed and held to apply to all taxes laid or imposed, and all charges, costs, or other assessments added to the assessment list delivered to the Town Finance Clerk for collection under this section. The Town Finance Clerk has all of the same powers, remedies, and authority, including the monition method of the collection of taxes, as conferred by Title 9 of the Delaware Code, as amended, or any future corresponding provision of law, upon those individuals or departments authorized to collect delinquent taxes in Kent County. In effecting a collection of any delinquent tax or any other charges, costs, or assessments due to the Town and added to the tax assessment list, the Town Council may recover the costs of collection, including all court costs, sale costs, reasonable and necessary out-of-pocket expenses, and reasonable attorney's fees incurred by the Town in the collection proceedings. The collection costs constitute a lien on all of the real estate of the taxable, becoming a part of, relating back to, and having the same preference and priority as the lien of the underlying amounts owed.
- 17.5 Whenever it becomes necessary or expedient for the Town to file any legal action or proceeding to enforce compliance with a Town ordinance or to collect an amount due to the Town before any court or administrative agency having jurisdiction thereof, if the Town is the prevailing party in the action, the court or administrative agency having jurisdiction may, in the exercise of its reasonable discretion, award judgment to the Town in an amount deemed appropriate by it to reimburse the Town for its costs of prosecution, including court costs, expert witness fees, reasonable attorney's fees, and other documented out-of-pocket expenses incurred in connection with such prosecution. To recover the amounts under this subsection, the Town must, before the filing of a legal action or proceeding, make written demand on the responsible party for compliance with the ordinance or payment of the amount due, as applicable, and the written demand must include notice of this subsection. 79 Del. Laws, c. 108; 83 Del. Laws, c. 15, § 8

**18. Enumeration of Specific Powers of Council.**

The Town Council may do all of the following:

- 18.1 Enact ordinances to preserve the health of the Town and to prevent the introduction and spread of infectious or contagious diseases.
- 18.2 Define, prevent, abate, and remove all nuisances, obstructions, unsanitary conditions, or any other condition detrimental to the public safety, health or welfare, whether in the street, squares, lanes, alleys, sidewalks, or in any other public or private property within the limits of said Town; and to cause the cost of such abatement or removal (including, but not limited to its reasonable attorney's fees incurred in enforcement and/or litigation, and court costs) to be paid by the property owners, legal entity, or individual causing or permitting the same to exist. The Town may enact ordinances or adopt resolutions to enforce the provisions of this section, which may be enforced by imposing such fines and penalties as shall be necessary and proper in the judgment of Council. For purposes of this section, any property, whether dwelling, storehouse, or both, or otherwise, which does not have a proper and active sewer, water, and electric connection whereby the property is receiving the service corresponding thereto, provided that such connections are 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. 80 Del. Laws, c. 239, § 1
- 18.3 Ascertain and fix the boundaries of streets, squares, lanes, alleys and sidewalks, to repave and improve the same, to alter, extend or widen any street square, lane, alley or sidewalk and to open, lay out, improve and repair new streets, squares, lanes, alleys, and sidewalks, subject, however, to the provisions and restrictions in that behalf herein otherwise contained.

- 18.4 Regulate and fix the ascents and descents of all streets, lanes, alleys and sidewalks and the drainage, repaving and improvement of foot pavements and to prescribe the width and materials thereof as hereinafter set forth.
- 18.5 Regulate and provide for the improvement of existing and the construction of new gutters and curbs, subject, however, to the provisions and restrictions in that behalf otherwise herein contained.
- 18.6 Prescribe the extent and nature of and to alter or remove steps, bay windows, porches, awnings, drains, sheds, cellar doors, posts and pillars and all inlets to lots and buildings.
- 18.7 Regulate the construction of and repair to chimneys and to provide for the keeping of the same cleaned and in a safe condition as to fire and other hazards.
- 18.8 Regulate or prevent the storage of gasoline, naphtha, oil, gunpowder or any other inflammable, combustible or dangerous substance and materials' to define, investigate, prevent, abate and remove fire and explosion hazards, both within and without buildings in the said Town.
- 18.9 Enact such ordinances, not in conflict with the Laws of the State of Delaware, as it may deem necessary and beneficial for the safety, regulation and control of pedestrians, automobiles, and animal drawn traffic over the streets, squares, lanes, and alleys and other public places of the Town, including power to make and enforce any and all parking and non-parking regulations.
- 18.10 Enact such ordinances and police regulations as it shall deem necessary and beneficial for the order, protection and good government of said Town.
- 18.11 Enact ordinances in relation to the keeping of dogs, and provide for a registration fee therefor and to regulate or prevent their running at large.
- 18.12 Enact ordinances to regulate or prevent the keeping of pigs and hogs in said Town, or in its judgment, in the more thickly populated parts of said Town.
- 18.13 Employ from time to time skilled surveyors to make plots and maps showing the limits of said Town and ascents, descents and limits of all streets, lanes, alleys, and sidewalks and the building lines upon the same, to show the location, depth and grade of all sewers and water mains and generally to do and perform all other matter of a cognate nature as may be deemed necessary by Council.
- 18.14 Notwithstanding any statute to the contrary, the Town of Wyoming shall have the power by ordinance to impose and collect a tax, to be paid by the transferor or transferee as determined by Council, upon the transfer of real property within the Town, not to exceed 1 and 1/2 percent of the value of the real property as represented by the document transferring the real property. The provisions of Chapter 54, Title 30, of the Delaware Code shall apply with respect to any realty transfer tax imposed by the Town of Wyoming pursuant to the authority granted herein. The Town Council of the Town of Wyoming may adopt an ordinance or ordinances to provide for the effective administration and regulation of any realty transfer tax adopted pursuant to the authority granted herein. If the taxing power and authority granted herein shall be exercised by way of a stamp affixed to a document, the Recorder of Deeds in and for Kent County shall not receive for record documents subject to said tax unless stamps provided by the Town of Wyoming are affixed thereto showing payment of tax.
- 18.15 The Town Council shall have superintendence and oversight of all roads, streets, squares, lanes and alleys now opened or hereafter to be opened, within the limits of the Town.
- 18.16 The Town Council shall have full power and authority to enact ordinances to prevent, suppress and regulate all bonfires, the firing of firearms and the setting off and exploding of fire crackers, fire works, torpedoes and all explosives at any places in said Town.
- 18.17 The Town Council shall have power and authority to levy and collect license fees, annually, for such various amount or amounts as Council shall from time to time fix, from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of said Town and shall have authority to levy and collect license fees upon the property of any person, firm, association or corporation carrying on business in said Town and supplying the inhabitants thereof with any form or manner of services for any valuable consideration;
- 18.18 Regulate the use of the streets in connection with the operation of public utilities within the Town, or the use of the streets by common carriers, either passenger or freight or both, and to require that licenses from the Town be secured and to determine the amount or amounts to be paid therefor;
- 18.19 Enact ordinances to prevent, abate or regulate electrical or other interferences with radio reception in said Town.

- 18.20 Enact ordinances for fire protection and to this end may prohibit the use of building materials that Council may deem would create a fire hazard in the section to be used, may zone or district the Town and make particular provisions for particular zones or districts with regard to building and building materials, and generally may exercise all powers and authorities vested by virtue of 22 Del.C. Ch. 3 ('Municipal Zoning Regulations'), as it may hereafter from time to time be amended, or any future corresponding provision of law, and may forbid any building except for which a building permit therefor has been obtained from and as prescribed by Council. This provision shall be deemed to include new buildings, or rebuildings or additions to or alterations of existing structures of any kind. Council shall have power upon inspection to condemn any existing building or structures that it deems to be a fire menace and to cause the same to be torn down or removed; Council shall have power to establish a building line for buildings to be erected.
- 18.21 The Town Council shall be vested with power and authority to prescribe fines, or penalties, or both, for violations of any of the provisions of this Act, or of the ordinances now in force, or which may hereafter be enacted in pursuance of any power hereof or of any power which may not be enumerated herein, provided, that no ordinance or other Act of Council shall provide any fine of more than One Thousand Dollars, exclusive of costs. Council may only provide for imprisonment, not to exceed thirty (30) days, for civil contempt (i.e. failure to pay fine).
- 18.22 As hereinafter provided in section 21 relating to power to issue Bonds, the Town shall have all other powers and functions requisite to or appropriate, for the government of the Town, its peace and order, its sanitation, beauty, the health, safety, convenience, comfort, and well being of its population and the protection and preservation of property, public and private; and all actions, suits, and proceedings shall be brought in the name of "The Town of Wyoming". The enumeration of particular powers by this Charter shall not be held to be exclusive, but in addition to the powers enumerated herein, it is intended that the Town of Wyoming shall have, and may exercise, all powers as may be implied therefrom or necessary to the reasonable exercise of such enumerated powers. All powers of the Town of Wyoming shall be exercised as prescribed by this Charter, or if not prescribed herein, by ordinance or resolution of the Town Council.
- 18.23 The Town Council shall have power to enact an ordinance authorizing civil penalties for violations of town ordinances and voluntary assessment procedures whereby an individual can waive trial and pay a prescribed penalty for violating a town ordinance without having to go to court. Such voluntary assessment procedures shall not apply to any offense addressed by Title 11 or Title 21 of the Delaware Code.
- 18.24 May license, tax and collect fees of such various amounts as the Town Council from time to time shall fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation, or renting out any real or personal property, within the limits of the Town.
- 18.25 May levy and collect taxes on gas and water mains, underground conduits, telephone, electric current or other poles or erections of like character in the Town, together with the wires thereon strung, and to this end may at any time direct the same to be included in or added to the Town assessment, with the authority of Council to cause such mains, conduits, poles and wires be removed and suit to be instituted to collect the taxes so levied, in the event the owner or lessee thereof refuse or neglect to pay such taxes.
- 18.26 Enforce the removal of ice, snow, or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners.
- 18.27 Where the title to real property is held by an association of property owners, e.g. a homeowner association, condo association, or maintenance association, the Town may assess each member of the association individually, on a pro-rata basis, for any expenses incurred by the Town to bring the real property held by the association into compliance with Town and State laws and ordinances, where the association has failed to make payment in full within 60 days after written demand from the Town. When the Town has a good faith belief that the association is defunct or no longer has a functioning board or other similar representative body, the Town shall provide notices directly to, and make demand of, individual association members. Notwithstanding the provisions of § 81-317 of Title 25 of the Delaware Code, as amended, an assessment made under this paragraph 18.27 may be collected in the same manner as other amounts owed to the Town. 79 Del. Laws, c. 108; 83 Del. Laws, c. 15, § 9

#### **19. Use of Town Money.**

The Town Council of said Town shall have full power and authority to use the money in the Treasury of said Town or any portion thereof, from time to time, for the improvement, benefit, protection, ornament and best interests of the said Town, as Council may deem proper, and to use Town money to accomplish and carry into

effect all acts and things which it has power to do, by virtue of the Laws of Delaware, this Act and all lawful ordinances and resolutions of Council.

## 20. Fiscal Year, Annual Statement.

The fiscal year of the said Town shall begin the first day of July in each year and shall end with the next succeeding last day of June. The Town Council shall cause a full and correct audit of the receipts and disbursements of all Town moneys for the prior fiscal year to be made available for public review at Town Hall and on the Town Website. Notice of the audit's availability for review at Town Hall and on the Town website shall be posted in four (4) public places, with one of the places being at the Town Hall. 79 Del. Laws, c. 108

## 21. Power to Borrow Money and Issue Bonds

### 21.1 Short-Term Borrowings by Town Council Without Voter Approval; Super-Majority Vote of Town Council Required; Limit on Borrowing.

The Town Council shall have the power to borrow money on the full faith and credit of the Town without approval of the voters and without regard to the provisions of sections 21.2 of this Charter, such sum or sums not exceeding in the aggregate One Hundred and Twenty-Five Thousand Dollars (\$125,000.00), for any municipal or public purpose when, in the opinion of at least four (4) members of the Town Council, the needs of the Town require it; provided, however, that any new borrowings under this section 21.1 made after the effective date of this act shall, by their terms, be repayable in full within five (5) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the Town Council duly authorized by Resolution of the Town Council and signed by the Mayor and attested by the Town Clerk with the town seal affixed. Any sum(s) of money borrowed on the full faith and credit of the Town shall be paid from the general funds of the Town. The aggregate amount of outstanding principal from any such borrowing or borrowings under this section 21.1 shall at no time exceed One Hundred and Twenty-Five Thousand Dollars (\$125,000.00).

### 21.2 Long-Term Borrowings; Voter Approval Required.

In addition to other borrowing powers granted to the Town under this Charter or by special act, the Town Council shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or certificates of indebtedness to secure the repayment thereof, on the full faith and credit of the Town for the payment of principal thereof and interest due thereon.

#### 21.2.1 Proper Municipal Purpose.

By way of illustration and not in limitation, "any proper municipal purpose" includes, but is not limited to the following:

- (A) erecting, extending, enlarging, maintaining, repairing, or replacing any plant, building, structure, machinery, or equipment for the production, treatment, collection, storage, supply, distribution or disposal of water, electricity, sanitary sewage, or storm-waters, or any of them, and the condemning or purchasing of any lands, easements, and rights-of-way which may be required therefor;
- (B) laying-out, constructing, paving, widening, or extending streets, lanes, alleys and public ways, curbs and gutters, including storm sewers along the same, and the condemning or purchasing of lands, easements or rights-of-way which may be required therefor;
- (C) erecting, enlarging, repairing, or replacing any municipal building including, by way of example, a Town Hall, a Police Department Building, a municipal warehouse, and the condemning or purchasing of lands, easements or rights-of-way which may be required therefor;
- (D) constructing, laying-out, widening, extending, repairing, and maintaining sidewalks, cross walks, or embankments, or any of them, and the condemning or purchasing of any lands, easements, or rights-of-way which may be required therefor;
- (E) defraying the costs to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter; and
- (F) paying all expenses deemed necessary by the Town Council for the issuance of said bonds or certificates of indebtedness, including bond discount and legal expenses of bond counsel.

#### 21.2.2 Limit of Aggregate Indebtedness.

In no event shall the total outstanding indebtedness of the Town of Wyoming, authorized by sections 21.1 and 21.2 at any one time exceed, in the aggregate, five percent (5%) of the assessed valuation of all real

property within the corporate limits of the Town of Wyoming and subject to assessment for the purpose of levying the annual town taxes as provided in this Charter.

21.2.3 Procedure; Notice, Hearing, Election.

In order to proceed under the power granted in this section 21.2, the Town Council shall authorize such borrowing in the following manner:

- (A) The Town Council by resolution shall give notice to the residents and property owners of the Town that the Town Council proposes to borrow a sum of money, not to exceed a stated amount, for a stated municipal purpose. The resolution shall state the amount of money desired to be borrowed (which may be stated as a "not to exceed" amount), the purpose for which it is desired, the manner of securing same, and such other facts relating to the loan which are deemed pertinent by the Town Council and in their possession at the time of the passage of the Resolution; and they shall fix a time, date and place for a hearing on the said resolution.
- (B) (1) Notice of the time, date, and place of the hearing on the resolution authorizing said loan shall be published in two newspapers of general circulation in the Town not less than fourteen (14) days, nor more than sixty (60) days, prior to the date set for the public hearing. Such notice shall be in bold print or bordered in black so as to call attention thereto. In addition to the time, date, and place of the public hearing, such notices shall contain the same information as required under section 21.2.3(A) above. (2) In addition to publication as herein provided, the Town Council shall, not less than fourteen (14) days nor more than sixty (60) days prior to the date set for the hearing, cause a public notice containing the information required above to be posted in at least five (5) public places in the Town. In the event the publications and/or postings do not appear on the same date, the date of the first publication or posting shall control.
- (C) If, at any time following the public hearing, the Town Council determines to proceed with the proposed borrowing, it shall pass a second resolution ordering a special election to be held, upon not less than fourteen (14) nor more than sixty (60) days public notice, for the purpose of voting for or against the proposed borrowing. The passage of the second Resolution shall ipso facto be considered a determination by the Town Council to proceed with the matter in issue; provided however, that the Town Council may, at any time subsequent thereto, and based upon a significant change in the relevant circumstances, act by resolution to cancel the Special Election and abandon the proposed borrowing.
- (D) (1) The notice of the time and place of holding the said Special Election shall be printed in two newspapers of general circulation in the Town, not less than fourteen (14) days nor more than sixty (60) days prior to the date set for the Special Election. In addition to the time, date and place of the election, such notice shall contain the same information as required under section 21.2.3(A). Such notice shall be in bold print or bordered in black so as to call attention thereto.
- (2) In addition to such publication as herein provided, the Town Council shall, not less than fourteen (14) days nor more than sixty (60) days before the date set for the election, cause public notice, containing the information set out in subsection (D)(1) above (using date of "posting" for date of "publication"), to be posted in at least five (5) public places in the Town. In the event the publications and/or postings do not appear on the same date, the date of the first publication or posting shall control.
- (E) (1) At such special election, any person(s) or artificial entity(s) (e.g. partnership, corporation, limited liability company) owning record title to real property in the Town shall be entitled to cast one vote; and any resident of the Town who does not own record title to real property in the Town who would be entitled to vote in the annual town election if it were held on that day, shall be entitled to one vote. (For purposes of this section, "entitled to vote" shall include "registered to vote" if voter registration is required for the annual town election.) (2) Any natural person entitled to vote may cast his/her vote by a duly executed and acknowledged power of attorney. Any legal entity (other than a natural person) entitled to vote must cast its vote by a duly executed and acknowledged power of attorney. Such Power of Attorney shall be surrendered to the Board of Special Election which shall file same in the Office of the Town Clerk. Such Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election on behalf of the person or legal entity granting the power. (3) Any Special Election held pursuant to the provisions of this section shall be conducted by voting machines, electronic voting systems, or printed ballots as permitted by law which shall have the following designation:

[ ] For the proposed borrowing.

[ ] Against the proposed borrowing.

The voter shall be instructed to mark the box for which he/she casts his/her vote. The Town Council shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened for a minimum of three (3) hours as specified by resolution of the Town Council. Qualified voters in the polling place at the time appointed for closing of the polls shall be entitled to vote.

(F) The Board of Special Election shall be the sole and final judges of the legality of the votes offered at such special election. It shall keep a true and accurate list of all persons voting. It shall count the votes for and against the proposed borrowing and shall announce the result thereof. The Board of Special Election shall make a certificate under their hands of the number of votes cast for and against the proposed borrowing and the number of void votes and shall deliver the same to the Town Council which said certificate shall be retained by the Town Council with the other papers of the Town.

(G) If a majority of the votes cast at such special election shall be in favor of such borrowing, the Town Council shall proceed with the issuance of the said bonds or certificates of indebtedness; provided, however, that the Town Council may, at any time prior to entering into a binding agreement for the public or private sale of such bond(s) or evidence(s) of indebtedness, abandon the proposed borrowing.

#### 21.3 Refunding Bonds or Certificates of Indebtedness.

The Town Council may, by Resolution adopted by a simple majority of the entire Town Council, authorize the issuance of bonds or other obligations under sections 21.1 and/or 21.2 for the purposes of refinancing any outstanding bonds or obligations of the Town without the necessity of a public hearing or a special election as would otherwise be required under section 21.2, provided that the outstanding principal amount of the refunding bonds or other evidence(s) of indebtedness does not exceed the face amount refunded, plus the cost of refunding (including all bond premiums and transaction fees), and results in a present value savings to the Town. Present value savings shall be determined by using the effective interest rate on the refunding obligations as the discount rate calculated based on the internal rate of return.

#### 21.4 Provision for Payment; Special Tax; Sinking Fund.

The Town Council shall provide for the payment of interest on and principal of any bonds or certificates of indebtedness issued under section 21.1 and/or 21.2 at the maturity thereof. The said Town Council is authorized and empowered, at its discretion, to levy a special tax upon all the real estate within the Town or only upon such real estate as is directly benefited by the improvements paid for by the proceeds of such borrowing to pay interest on said bonds and/or principal; and at their discretion, to establish a sinking fund adequate to the redemption, at or before maturity, of all bonds or certificates of indebtedness which may be issued under the provisions of sections 21.1 and/or 21.2; provided, that the amount to be raised under any special tax for this purpose shall not in any one year exceed the total amount necessary to pay all currently due principal amounts of the bonded indebtedness together with all interest currently due thereon within that year, or such amounts as necessary to enable a sinking fund to accomplish its specified purpose. The special tax provided for in this section 21.4 shall be collected from the owners of real estate in the same manner as the other taxes levied by the said Town Council are collected. The Town Council may also appropriate and set aside for such sinking fund so much of the general funds of said town as they may from time to time think advisable. The sinking fund provided for by this section 21.4 shall be deposited in federally insured deposits in a bank, trust company, or other banking institution until such time as it may be needed for the redemption of the bonds.

#### 21.5 Full Faith and Credit Unless Otherwise Stated.

Unless any such bond(s) or certificate(s) of indebtedness shall provide otherwise, the full faith and credit of the Town of Wyoming shall be deemed to be pledged for the due payment of any bonds or certificates of indebtedness and the interest thereon issued under the provisions of sections 21.1 and/or 21.2 when the same shall have been properly executed and delivered for value notwithstanding any other provision of this Charter.

#### 21.6 Form of Bonds.

The form of the bonds or certificates of indebtedness authorized under sections 21.1 and/or 21.2 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 feature, the denomination, the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the Town Council after the final action required to authorize the issuance of such bonds or certificates of indebtedness has



been completed (i.e. a majority vote of the Town Council under section 21.1; or a favorable vote of those natural persons and legal entities entitled to vote following the public hearing and special election procedures under section 21.2).

**21.7 Council Members Not Liable.**

No member of the Town Council, nor any person executing any bonds or other obligations issued pursuant to sections 21.1 and/or 21.2, 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, provided that he/she is authorized to act by Resolution of the Town Council.

**21.8 Exempt from Taxation.**

All bonds or other kinds or forms of certificates of indebtedness issued by the Town pursuant to the provisions of sections 21.1 and/or 21.2, and the interest thereon, shall be exempt from taxation by the State of Delaware or by any political subdivision or agency thereof. Any property acquired and held by the Town from the proceeds of bonds or certificates of indebtedness issued pursuant to sections 21.1 and/or 21.2 shall be exempt from taxation by the State of Delaware or any political subdivision thereof.

**21.9 Public or Private Sale.**

Any bonds or certificates of indebtedness authorized under sections 21.1 and/or 21.2 may be sold or issued at either public or private sale. If the bonds shall be offered for public sale they shall be sold to the best and most responsible bidder(s) therefore after advertisement in a manner to be prescribed by the Town Council for at least fifteen (15) days before offering the same for sale. All bonds or certificates of indebtedness issued pursuant to section 21.1 and/or 21.2 shall be deemed to be legal investments by any bank, trust company, insurance company, executor, administrator, curator, trustee, or other fiduciary.

**21.10 Statute of Limitations.**

No action contesting any proceedings conducted, or action taken, by the Town Council hereunder regarding the authorization of any bonds or certificates of indebtedness issued under this section 21 shall be brought after the expiration of sixty (60) days from the publication of a notice in at least two newspapers, one of which shall be of general circulation in the Town of Wyoming and one of which shall be of general circulation in the State of Delaware, which notice shall announce the following information:

- (A) That the Town Council has determined to borrow a certain sum of money and to issue bonds or certificates of indebtedness therefor.
- (B) That the proposal has been approved (as appropriate) by a majority of the Town Council (if the borrowing has proceeded under section 21.1) or by a majority of those casting votes at a special election in the Town called for the purpose of voting for or against the borrowing (if the borrowing has proceeded under section 21.2.)
- (C) The amount of money to be borrowed, which may be stated as a "not-to-exceed" amount.
- (D) The purpose for which it is to be borrowed.
- (E) The security for such borrowing.
- (F) That any person desiring to challenge the authorization of such bond(s) or certificate(s) of indebtedness must bring his/her action within sixty (60) days from the date of publication of such notice or forever be barred from doing so.

Such notice shall be in bold print or bordered in black in such manner as to call attention thereto. In addition to publication as herein provided, the Town Council shall cause a public notice, containing the information set out in subsections (A) through (F) above (using date of "posting" for date of "publication") to be posted in at least five (5) public places in the Town. In the event the publications and/or postings do not appear on the same date, the date of the first publication or posting shall control.

**22. Reserved.** 80 Del. Laws, c. 239, § 1

**23. Streets and Alleys.**

**23.1 Power to Lay Out, Locate, Open, Widen, Alter, Close, Vacate or Abandon.**

The Town Council shall have the power and authority to lay out, locate, and open new streets or alleys, or to widen or alter existing streets or alleys, or parts thereof, and to close, vacate, or abandon existing or proposed streets or alleys or parts thereof, whenever the Town Council shall deem it in the best interest of the Town.

**23.2 Initiation of Proceedings.**

The procedures set forth in this Charter to lay out, locate, open, widen, alter, close, vacate, or abandon a street or alley in the Town of Wyoming may be commenced by resolution of the Town Council.

#### 23.3 Resolution Proposing Change: Notice; Hearing.

Any such resolution shall contain a description of the proposed change and shall fix a time, date, and place when the Town Council shall sit to hear comments and objections concerning the proposal. At least fourteen (14) days before the date set for such hearing, the resolution adopted by the Town Council shall be printed in a newspaper having a general circulation in the Town of Wyoming and shall be posted in four (4) public places in the Town, with one of the places being at the Town Hall.

#### 23.4 Notice to Affected Property Owners.

The Town Council shall cause to be sent, certified mail, return receipt requested, to the owner(s) of record of the real estate through, over, or abutting which such street or alley may run. Notice to one co-owner shall be effective as to all. If the address of the owner be unknown, a copy shall be delivered to any persons occupying the premises, or if none, posted thereon. Notice to affected property owners under this section 23.4 shall be provided at least fourteen (14) days before the date set for the hearing.

#### 23.5 Hearing.

At the time and place in the resolution, the Town Council shall hear such residents or taxables of the Town or owners of the property affected thereby, as shall attend the hearing. After hearing all comments, the Town Council shall, at said meeting, or at a subsequent date, as it may deem proper, adopt a resolution to proceed with, or abandon, the proposed locating, laying out, widening, altering, closing, vacating, or abandoning of any street(s) or alley(s) or parts thereof contemplated in its aforementioned prior resolution. The Town Council shall, within five (5) days following the adoption of the aforesaid resolution, cause a copy of such resolution to be provided to all affected property owners in the same manner as the notice provided under section 23.4.

#### 23.6 Payment of Compensation; Acquisition of Title.

##### 23.6.1 Where Lands Taken.

Whenever the Town Council determines to proceed with the opening of a new street or alley, or the widening of an existing street or alley, the Town may acquire title to the lands necessary in accordance with 29 Del.C. Ch. 95 ('Real Property Acquisition') by negotiation and purchase or by condemnation in accordance with the provisions of 10 Del.C. Ch. 61 ('Condemnation'), as hereafter amended or in accordance with any future corresponding provisions of law.

##### 23.6.2 Where Street or Alley Closed, Vacated, or Abandoned.

Whenever the Town Council determines to proceed with the closing, vacating, or abandoning of any existing street or alley, or any part thereof, no compensation shall be paid to any property owner unless such closing, vacating, or abandoning deprives a property of all reasonable vehicular access directly between any public street or public alley and an existing garage, carport or improved off-street parking area located on such property such that the property owner effectively loses the use thereof for off-street parking and/or temporary storage of motor vehicles. Any property owner claiming such deprivation shall notify the Town in writing of such claim within fifteen (15) days of the resolution adopted pursuant to section 23.5. Upon receipt of such notice, the Town Council shall proceed to pay compensation for such damages in the same manner as in section 23.6.1.

##### 23.6.3 Disposal of Abandoned and Vacated Street Lands.

Whenever the land comprehended or included in any street or alley or part thereof is vacated or abandoned under this section be owned by the Town, the Town Council may, in its discretion, sell such land at public or private sale and for such consideration as the Town Council shall deem proper; provided that such lands shall first be offered equally to the owners abutting on each side. The Town Council shall have the right and power to convey to the purchaser or purchasers thereof, a good and sufficient title thereto for whatever estate the Town may have therein.

##### 23.6.4 'Street' Defined.

For all purposes of this section 23, the word 'street' shall be deemed and held to comprehend the entire right-of-way, whether or not improved, including sidewalks, curbs, lanes, alleys, roadways, streets, or other highways owned by, titled in the name of, or under the jurisdiction and control of the Town. 'Street' shall not include any road, street, highway, or other public way under the jurisdiction and control of the Delaware Department of Transportation (or any successor state agency). 79 Del. Laws, c. 108

## 24. Paving, Guttering, Curbing.

The Council shall have the power to cause to be paved or repaved the sidewalks of the said Town, or any part or portion thereof, and shall have power to have existing curbs or gutters, or both, repaired or relaid, or new curbs or gutters, or both, constructed, or any part of or portion thereof, in said Town, with such material or materials and of such width or size, and subject to such specifications as it shall determine. Before the exercise of said power in any particular instance, the Council shall adopt an ordinance or resolution stating in effect that on a named day and at a named hour and place the Council will meet to consider the question of paving or repaving the sidewalks with a specified material or materials, or repairing existing curbs or gutters, or both, or altering existing curbs or gutters, or both, with any specified material or materials and according to the stated specifications on a named street in front of the property of named owners, and of assessment of the costs thereof against such owners. The said ordinance or resolution shall be published at least one week prior to the meeting aforesaid in at least one issue of a newspaper published in Kent County. The Council shall hold a meeting in said Town in accordance with said ordinance or resolution and thereat shall hear the aforesaid owners of property and other residents of the Town appearing on the question referred to in the said ordinance or resolution.

After such hearing, the Council, either at said meeting or at a subsequent meeting, shall decide whether or not to proceed with the improvements referred to in said ordinance or resolution, and if it shall decide to proceed, it shall determine whether the whole or some specified proportion of the costs of the improvements aforesaid in front of the real property of the owner or owners named in the aforesaid ordinance or resolution shall be borne by said owners. If said determination shall be that the whole or specified proportion of said costs shall be borne by said owners, then and in such case the said owners shall be compelled to pay the whole or specified proportion of the cost aforesaid, as the case may be, the amount to be paid by the owner of each parcel of property affected to be determined by the lineal frontage of the parcel on the sidewalk to be paved or repaved, or in the gutter to be repaired or laid, or on the curb, to be repaired or constructed, or any or all of said improvements, as the case may be.

When the said paving or repaving, curbing or recurbing, guttering or reguttering, or any or all of them, having been done and the costs thereof ascertained, the Council shall ascertain the amount that the owner of each parcel or property aforesaid shall pay as hereinbefore stated, and shall give written notice thereof to such owner, or one of the co-owners, by mailing the same to his/her last known address. If any such owner shall fail to pay the specified amount within thirty days after the mailing of such notice, the same together with costs may be collected by an action of debt before any Justice of the Peace of Kent County. Writs of execution may issue upon judgment recovered as in like cases of a civil nature and the same proceedings had as on any other judgment before a Justice of the Peace. Upon a return of Nulla bona on an execution issued on said judgment a certified abstract of said judgment shall be filed in the Prothonotary's office for Kent County and said judgment shall become a lien upon the premises affected with same force and effect of any other judgment entered in the Superior Court of the State of Delaware.

The term 'Owner' as used in this section shall be deemed to mean the person or persons who owned the property in question at the time of the adoption or passage of the ordinances or resolutions first in this section referred to, and any change of ownership thereafter shall not be deemed or held to affect any of the steps or proceedings mentioned in this section.

## **25. Constructing, Paving, Repairing of Streets.**

The Town Council of the Town of Wyoming, shall have full power and authority to regrade, redress or otherwise repair and rebuild all existing streets, lanes, alleys, and other public thoroughfares in the Town of Wyoming and to construct, build, pave and in any manner improve all new and existing streets, lanes, alleys and other public thoroughfares now opened or to be hereafter opened for public use in said Town, and in so doing shall use such materials and substances and such methods of construction and shall employ such contractor, engineers, inspectors and others as the Council shall deem expedient and may use different materials and different methods of construction on different streets, or on different parts of the same street, as Council deems advisable. For the purpose of this section Council shall have full power and authority to expend such part or parts of the money of the said Town in the general fund of the Town not otherwise appropriated.

## **26. Drainage.**

The Town Council of said Town shall have the full jurisdiction and control within the limits of said Town of the drainage thereof, and the right to alter and change the course and direction of any of the natural water courses, runs or rivulets within the limits of the Town, and may pass ordinances for the opening of gutters, drains and

sewers within said Town limits and the regulating and maintaining, cleaning and keeping the same and the natural water courses, runs and rivulets within the said Town limits open, clean and unobstructed, and for that purpose may authorize the entry upon private lands and take, condemn and occupy the same in the same manner and by the same condemnation proceedings as hereinbefore provided in case of the water and sewer systems of the said Town and as prescribed by section 23 of this Act for the opening and laying out of new streets, and the resolutions referred to in said section 23 shall be changed and modified to cover the cases contemplated by this present section.

## **27. Ordinances.**

The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the Town, or relating to the government of the town, its peace and order, its sanitation, beauty, the health, safety, convenience and comfort of its population, and the protections and preservation of property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated. It shall be the duty of the Council to compile the ordinances of the Town, to have a reasonable number of copies printed for the use of the officials of the Town and for public information; and from time to time, upon the enactment of new ordinances, or the amendment of existing ordinances, to enroll the same in the minutes of the Council, and to keep copies thereof in a book to be provided for that purpose, so that the same may be readily examined; as they are enacted and published.

## **28. Health**

### **28.1 Fire.**

The Council shall have the power to adopt all measures requisite or appropriate for protection against fire, and to appropriate money for the purpose of fire equipment, whether owned by the Town or by a Volunteer Fire Company, as long as such regulations are in no way inconsistent with regulations adopted by the State Fire Marshall.

### **28.2 Building Inspection Permits.**

The Town Council may appoint a Building Inspector, who shall act in accordance with the duties prescribed for him/her by the Council for its approval. The Council may provide for the issuance of building permits, and may forbid the construction of any new building, or the addition to, or alteration, or repair of any existing building unless a building permit has been obtained therefor.

Should any person, firm or corporation hereafter desire to erect any building or buildings within the corporate limits of said Town for the purpose of conducting therein the business of canning fruits, vegetables, meats, oysters, etc., or for the manufacture or manipulation of phosphate, fertilizers or manures of any kind, he/she or they before erecting such buildings or building, or engaging in such business, shall make an application in writing for permission therefor to said Council. And should said Council determine that such building will not endanger the other property of the Town, and said business will not jeopardize the health of or be offensive to the citizens thereof, the Council shall have authority to grant a permit to erect such buildings and conduct such business.

## **29. Trees**

Trees being among the chief beauties of the Town, and their preservation requiring that they be treated with special care, the Council is empowered to take necessary or appropriate action to prevent injuries to trees from electric wires or from any other source or cause whatsoever.

## **30. Electric Current; Franchises**

The Council shall have power to make contracts for the purchase of heat, light, water and electric current with any responsible persons, firms, or corporations for all municipal purposes. The Town Council shall also have full power and authority at any regular or special meeting, by a majority vote, to enact ordinances or adopt resolutions granting franchise to any responsible person, firm, association or corporation, and for such terms of years as shall seem wise to said Council, to use the present and future streets, squares, alleys, and lanes of the said Town for purposes of furnishing light, heat, power, gas or water, or any or all of them to said Town and to the persons, firms, or corporations residing therein and for the purpose of transmitting light, heat, power, gas

and water, or any or all of them through, over, across or under said streets, squares, alleys and lanes to points outside of the limits of said Town; and such franchise or franchises to contain such restrictions, conditions and stipulations as shall to said Council seem wise, and said Council, by a majority vote, at any regular or special meeting, shall also have full power and authority to enter into contracts with any responsible persons, firms, associations or corporations for the furnishing of light, heat, power, gas or water, or any or all of them, or for the furnishing of electric current, either at wholesale or retail, to said Town, or to persons, firms, and corporations residing therein, or adjacent thereto.

### **31. Penalties**

The Council shall have the power to enact ordinances, rules and regulations and to fix the penalties for violations thereof relating to the use of streets, highways, lanes, and alleys, the parking of vehicles thereon, with the power to prohibit parking on streets, or portions thereof, entirely or within certain hours, or for certain lengths of time.

### **32. Fines**

No fine shall be imposed in a sum exceeding One Thousand Dollars (\$1,000) exclusive of costs.

### **33. Subdivision and Land Development.**

#### **33.1 Power to Regulate.**

In order to provide for the orderly growth and development of the Town, to promote the health, safety, prosperity, and general welfare of the present and future inhabitants of the Town, to insure the conservation of property values and natural resources, including the protection of the Town's open lands, water resources, and recreational potential, and to afford adequate provision for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the Town may regulate the subdivision and development of all land in the Town. Such regulation may, through ordinance, include:

- (A) Varying procedures for insuring the processing of combining, partitioning, or land subdivision and site plans, within a reasonable period of time, relative to the number of lots or parcels and the extent of improvements required.
- (B) Procedures for insuring that the arrangement of the lots or parcels of land or improvements thereon shall conform to the existing zoning at the time of recordation and that streets, or rights-of-way, bordering or within subdivided or developed land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate prospective traffic, that adequate easements or rights-of-way shall be provided for drainage and utilities, that reservations of areas designed for their use as public grounds shall be of suitable size and location for their designated uses, that sufficient and suitable monuments and signage shall be required, that land which might constitute a menace to safety, health or general welfare shall be made safe for the purpose for which it is subdivided or developed, and that adequate provision for public utilities (e.g. water supply, fire protection, sanitary sewage collection, electric distribution, telephone, and cable) is made.
- (C) Procedures for encouraging and promoting flexibility and ingenuity in the layout and design of subdivisions and land development, and for encouraging practices which are in accordance with contemporary and evolving principles of site planning and development.
- (D) Requiring, through dedication of land, money in lieu of land, "impact fees," or otherwise, those subject to such regulation to provide, at their own expense, such municipal or public improvements (including enlargement, expansion, improvement, or enhancement of existing municipal or public improvements) which have a rational nexus to the proposed land subdivision, combining, or partitioning, or development, including, by way of example and not in limitation, the paving of streets, installation of sidewalks, curbs, storm sewers, water lines, sanitary sewer lines, electric distribution lines, street signs, access roads, playgrounds, parks, and open areas. In imposing such requirements, the Town may consider and take into account future as well as immediate needs, and potential as well as present population factors affecting the neighborhood in question.
- (E) Procedures for insuring that any improvements to be constructed on such lands are in compliance with all appropriate Town ordinances and that the placement and location of such improvements will not have a significant negative impact on adjoining properties.

- (F) Procedures for securing financial guarantees from the developers of such lands to insure satisfactory completion of all such required improvements, which may include extending the term of such guarantee for a reasonable period of time (not exceeding three years) beyond the actual completion of such improvements by the developer or acceptance of such improvements by the Town.

### 33.2 Recording Unapproved Plans.

In the event an ordinance of the Town so provides, no plat, plot, or plan of land shall be received for filing or recording by the Recorder of Deeds in and for Kent County unless and until such plat, plot, or plan shall have been approved by the Town body so authorized to grant such approvals and the fact of such approvals shall have been endorsed in writing on such plan. Any plat, plot, or plan recorded in violation of such ordinance shall be void and of no legal force or effect.

## 34. Annexation of Territory

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

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

the Town annex certain territory contiguous to its then limits and territory. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the Committee, the Resolution proposing annexation to the property owners and residents of both the Town and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the Town Council. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the Resolution failed to receive the required affirmative vote. The Resolution proposing the annexation shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution adopted by the Town Council setting forth the above information shall be printed in a newspaper having a general circulation in The Town of Wyoming at least one (1) week prior to the date set for the public hearing, or, at the discretion of the Town Council, the said resolution shall be posted in four (4) public places both in The Town of Wyoming and in the territory proposed to be annexed.

- (D) Following the public hearing, but in no event later than thirty (30) days thereafter, a Resolution shall then be passed by a majority of the Town Council ordering a Special Election to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. Passage of this Resolution shall ipso facto be considered the determination of the Town Council to proceed with the matter of the proposed annexation.
- (E) The notice of the time and place of the said Special Election shall be posted in four (4) public places in The Town of Wyoming and on each parcel proposed for annexation at least fifteen (15) days prior to the date set for the said Special Election. Each placard posted on each parcel proposed for annexation shall be four feet by four feet in dimension. Notice of the time and place of the said Special Election shall also be published in at least one (1) issue (per week) of a newspaper having a general circulation in the Town of Wyoming, for two (2) consecutive weeks, with the last of such notices being published at least seven (7) days prior to the date of the said Special Election.
- (F) At the Special Election, every citizen of The Town of Wyoming or the territory proposed to be annexed over the age of eighteen (18) years shall have one (1) vote. Every owner of property within either The Town of Wyoming or in the territory proposed to be annexed who is not a citizen therein, whether an individual partnership or a corporation, shall have one (1) vote. In the cases of jointly owned property, each property owner shall be entitled to one vote. Life tenants shall have the entire vote as to the property so held and holders of remainder interest only shall have no vote by reason thereof. In no event shall any person be entitled to more than one (1) vote. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of The Town of Wyoming in the case of property owners and citizens of the Town and the books and records of the Board of Assessment of Kent County, in the case of property owners and residents of the territory to be annexed, shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.
- (G) In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote at the said Special Election, a duly authenticated Power of Attorney shall be filed with the Town Council of The Town of Wyoming. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election.
- (H) The Town Council of The Town of Wyoming shall cause voting machines to be used in the Special Election, the form of ballot to be printed as follows:
  - [ ] For the proposed annexation
  - [ ] Against the proposed annexation
- (I) The Mayor of The Town of Wyoming shall appoint three (3) persons to act as a Board of Special Elections, at least one (1) of whom shall own property in the Town of Wyoming and at least one (1) of whom shall own property in the property proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in a public place as designated by the Resolution calling the Special Election. The Board of Special Elections shall have available, clearly marked, two (2) voting machines. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations authorized to vote as residents or property owners of The Town of Wyoming shall be accomplished on the other such

- voting machine. The polling place shall be open for no less than five (5) hours on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for closing of the polls.
- (J) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their Hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the Town Council of The Town of Wyoming. Said Certificate shall be filed with the papers of the Town Council.
- (K) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from The Town of Wyoming, and a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one (1) year from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the Town Council of The Town of Wyoming shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be a part of The Town of Wyoming from the time of recordation. The failure to record the description of the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.
- (L) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books on the Board of Assessment of Kent County, no election shall be necessary and the Town Council of The Town of Wyoming may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation, if such property is owned by a corporation, or by a written Petition with the signature of each such Petitioner duly acknowledged, if such property is owned by an individual, requesting the Town Council to annex that certain territory in which they own property. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of The Town of Wyoming shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. No later than ninety (90) days following its appointment by the Mayor, as aforesaid, the committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Wyoming. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Wyoming 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 both to The Town of Wyoming and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Wyoming may then pass a Resolution annexing such territory to The Town of Wyoming. Such Resolution shall be passed by the affirmative vote of a majority of all the elected members of the Town Council. In the event that the committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution shall be passed by four-fifths (4/5) of all the elected members of the Town Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of The Town of Wyoming shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of The Town of Wyoming from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution. 79 Del. Laws, c. 108



**35. Impact Fees**

The Town Council may impose, upon new development or construction or upon first time occupancy of new construction such 'impact fees' as are reasonably and proportionally calculated to recover the cost of installing, enlarging, improving or expanding public or municipal improvements which have a rational nexus to such new construction; and/or to contribute to the costs of operations of those volunteer fire companies and/or ambulance/paramedic companies providing services within the Town.

**36. Survival of Powers and Validating Section.****36.1 Powers Vested in Town.**

All powers conferred upon or vested in the Town Council of Wyoming by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the Town of Wyoming and/or the Town Council of Wyoming precisely as if each of said powers was expressly set forth in this Charter.

**36.2 Ordinances Currently in Force.**

All ordinances adopted by the Town Council of Wyoming and in force at the time of approval, acceptance and going into effect of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the Town Council of Wyoming under the provisions of this Charter.

**36.3 Prior Acts of Town.**

All of the acts and doings of the Town Council of Wyoming or of any official, or of the Mayor, or the Town which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town of Wyoming under any provision of any prior Charter of the Town of Wyoming, prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

**36.4 Continuance of Debts Owed to Town.**

All taxes, assessments, license fees, penalties, fines, liens, forfeitures, and other charges due to the Town of Wyoming shall be and remain due to the Town of Wyoming and all debts due from the Town of Wyoming shall remain unimpaired until paid by the Town of Wyoming.

**36.5 Ability to Collect Unpaid Debts.**

All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges or amounts owed to the Town shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the Town of Wyoming.

**36.6 Bonds.**

The bonds previously given by or on account of any official of the Town of Wyoming shall not be impaired or affected by the provisions of this Charter.

**36.7 Continuance of Town Council Office Terms.**

Each member of the Town Council who holds office at the time of approval of this Act shall continue to serve until the expiration of his/her term of office, and until his/her successor is duly elected and qualified.

**36.8 Inconsistent Acts Repealed.**

All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter shall be and the same are hereby repealed to the extent of any such inconsistency.

**37. Separability.**

If any part of this Act shall be held unconstitutional, such holding shall not in anywise invalidate the remaining provisions of the Act.

**38. Special Act.**

This Act shall be deemed and taken to be a public Act.

**39. Effective Date.**

This Charter shall take effect as of the date of its enactment."

49 Del. Laws, c. 248; 51 Del. Laws, c. 40; 61 Del. Laws, c. 293; 64 Del. Laws, c. 238; 65 Del. Laws, c. 384; 67 Del. Laws, c. 203; 68 Del. Laws, c. 56; 70 Del. Laws, c. 206; 72 Del. Laws, c. 14; 72 Del. Laws, c. 373; 74 Del. Laws, c. 65; 76

Del. Laws, c. 356; 77 Del. Laws, c. 17, § 1; 77 Del. Laws, c. 450, § 1; 79 Del. Laws, c. 108; 80 Del. Laws, c. 239; 83 Del. Laws, c. 15;