

Section 14 Duties and Powers of the Mayor. ~~[[admin edits: clarification of Commissioner oversight of departments]]~~

(a)

The Mayor of the Town of Dewey Beach shall be sworn or affirmed to perform the duties of ~~the~~ his ~~o~~Office of the Mayor with fidelity.

(b)

~~The Mayor He shall serve as be the presiding officer chief executive of the Town Council. He As such, it shall be the Mayor's his duty to preside at all meetings of the Town Council Commissioners and the Mayor he shall have a vote therein. and in case of his absence a President Pro Tempore shall be appointed in his place from the other Commissioners. The Mayor He shall execute on behalf of the Town when authorized by a majority vote in a properly-noticed Town Council Meeting of the Commissioners present all agreements, contracts, bonds, deeds, leases and other documents necessary to be executed. He shall have the power to appoint the other Commissioners to be in charge of any departments or divisions of the Town Government created by the Commissioners. At The Mayor may appoint least one an individual Commissioner must be appointed to act as a liaison to each department or division of the Town government to provide the Town Council a better understanding of departmental operations and needs and not to interfere in any manner with normal departmental operations created by the Commissioners. The Mayor shall have the authority to issue temporary orders to authorize the Town response and the expenditure of Town funds in the face of a declared State- or National emergency to be in effect until such time as an emergency meeting of the Town Council can be convened provided the Town Manager is able to obtain the consent thereto by at least two other Commissioners by phone or email. The Mayor shall be a member, ex-officio, of all committees. It shall be the duty of the Mayor to see that the laws and ordinances of the said Town are faithfully executed and the Mayor shall perform all duties imposed upon the Office of the Mayor him by this Charter. The Mayor shall also have the power to administer oaths and affirmations. The Mayor shall also serve as the liaison between the Town Council and the Town Manager and as the official spokesperson for the Town Council. The Mayor shall also have the power and authority to solemnize marriages within the boundaries of the Town of Dewey Beach. In cases where the Mayor is absent or incapacitated, the Secretary of the Town Council shall serve in the Mayor's place. (72 Del. Laws, c. 425, 7/13/2000)~~

Comment [DSK1]: See end of paragraph –pro tem responsibility rolled into that of Secretary.

Comment [DSK2]: Need to clarify exactly what “departments” this applies to and if this is the right way to describe them. I see this only applying to the police and beach patrol. Others?

Comment [DSK3]: Alternatively, delete this sentence (along with the prior one).

Comment [DSK4]: Spokesperson?

Comment [DSK5]: Moved and amended to provide for a someone to execute the mayor's duties. Not a lot different from what is done now. Is this okay?

(c)

As a Commissioner of Dewey Beach, ~~the and as Mayor of the Town of Dewey Beach, he~~ shall have the same right as other individual Commissioners to vote on all matters, and debate any question from the floor.

(d)

Upon the expiration of ~~the Mayor's his~~ term of office or upon resignation or removal from office, ~~the Mayor he~~ shall forthwith turn over all records, books, papers, documents and other things belonging to or appertaining to ~~the his~~ Office of Mayor of the Town of Dewey Beach ~~and He shall also~~ pay over to the Town Treasurer all monies ~~in his hands~~ belonging to the Town.

Section 15 Town Manager. ~~[[admin edits; add language re: term, evaluation and removal]]~~

(a)

The Mayor of the Town of Dewey Beach, with the concurrence of a majority vote in a properly-noticed Town Council Meeting of all ~~the elected~~ Commissioners present of the Town, may appoint a Town Manager who shall be responsible for all administrative affairs of the Town, the Chief Administrative Officer of the Town and who shall be the Secretary of the Commission of the Town and the Treasurer of the Town. The Town Manager shall also serve as the liaison between the public and the Town Council.

Comment [DSK6]: Comments?

(b)

The Town Council Commissioners of the Town of Dewey Beach shall impose such qualifications for Town Manager as may be deemed necessary; provided, however, that no person holding the office of Mayor or Commissioners shall be chosen to be Town Manager during their his term of office as Mayor or Commissioner.

Comment [DSK7]: Marcia was going to provide a set of minimum qualifications.

(c)

The Town Manager shall be appointed for a fixed term and shall report to the Mayor acting on behalf of the Town Council. The Town Manager's performance shall be evaluated by the Town Council at least once a year. The Town Manager may be removed for just cause by an affirmative majority vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting of the Commissioners of the Town of Dewey Beach. At least thirty (30) days before such removal shall become effective, the Town Council Commissioner shall, by a majority vote in a properly-noticed Town Council Meeting of all of the elected Commissioners present thereof, adopt a preliminary resolution stating the reasons for the Town Manager's his removal. The Town Manager may reply in writing and may request a public hearing which shall be properly noticed and held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Town Council Commission, by a majority vote in a properly-noticed Town Council Meeting of all of the elected Commissioners present thereof, may adopt a final resolution of removal. By the preliminary resolution, the Town Council Commission may suspend the Town Manager from duty but shall in any case cause to be paid to the Town Manager him forthwith any unpaid balance of his salary for the next three (3) calendar months following the adoption of the preliminary resolution. At the end of the Town Manager's contractual term of employment the Town Council may act so as not to renew or extend the Town Manager's contract without case by an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting. (78 Del. Laws, c. 346, 7/18/2012)

Comment [DSK8]: Introduces a term. Should this be 3 years?

Comment [DSK9]: Should this be a majority vote or a super-majority vote, or vote of all 5 commissioners?

(d)

In case of the absence or disability of the Town Manager, the Town Council Commission may designate some qualified person who shall not may be an elected or appointed official of the Town of Dewey Beach nor a Town employee to perform the duties of such office on a temporary basis during his absence or disability. The compensation which the Town Manager shall receive for the performance of his duties shall be established fixed by resolution by the Town Council Commission of the Town of Dewey Beach. (70 Del. Laws, c. 191, 7/10/1995)

Comment [DSK10]: Non-renewal without casue. Is this what we want to recommend?

Comment [DSK11]: Changed to prohibit town officials and employees. Is this what we want to recommend See also 16j.

Comment [DSK12]: Established versus fixed to provide for cost of living increases or performance bonuses/

Section 16 Responsibilities of the Town Manager. [admin edits; chain of command & authority; performance reviews]

(a)

The Town Manager shall be responsible to the Town Council Commissioners of the Town of Dewey Beach for the proper administration of the affairs of the Town placed in the Town

~~Manager's his~~ charge and to that end, ~~the~~ Town Manager ~~he~~ shall have the ~~power authority~~ to make such appointments, ~~and~~ to hire such employees at such compensations ~~as appropriate for each position or level or qualification, to promote and to remove from such employment as the Commissioners, by resolution, shall determine,~~ subject to such rules and regulations as may be adopted by the Town Council, ~~provided in the case of any employee of a department or division with a department head other than the Town Manger that prior to taking any personnel action the Town Manager shall take into consideration the recommendation of the cognizant department head Commissioners.~~ All such department or division heads are responsible for the expedient and efficient operation of their respective department or division, to ensure that such department or division adhere to its budget, and to see that all Town policy and laws under the purvue of their department or division is faithfully executed. All employees may be removed ~~by the Town Manager~~ at any time for just cause ~~provided the provisions of the Town Employee Manual are properly followed unless otherwise provided by resolution of the Commissioners. He shall exercise his sole discretion in the appointment or hiring of any such employees.~~ The Town Manager shall seek input from the Town Council for personnel actions regarding heads of departments or divisions created by the Town Council but otherwise shall be the ultimate ~~sole~~ judge of the competence or incompetence of any such person ~~recommended for hiring, promoting or termination, so appointed or hired by him.~~ The rights of an employee to appeal any personnel action are specified in the Town Employee Manual, however ~~the~~ Town Council Commissioners of the Town of Dewey Beach shall may sit as a Board of Appeal for the protection of Town employees at those times when ~~by the~~ majority vote in a properly-noticed Town Council Meeting of ~~all the~~ Commissioners ~~present it is are~~ agreed that a review of the action of the Town Manager would be in the best interest of the Town ~~of Dewey Beach~~. The decision of the Town Council Commissioners in such case shall be final and conclusive. (78 Del. Laws, c. 346, 7/18/2012)

(b)

It is the intention of this Charter that, in the performance of ~~the his~~ duties, and in the exercise of ~~the his~~ powers of the Office of the Town Manager, the Town Manager shall not be influenced by any matters whatsoever of a political or fractional nature. It is the intention of this Charter that the Town Manager shall be guided solely by the matters of expediency and efficiency in the administration of the affairs of the Town placed in the Town Manager's his charge ~~and to see that the policy and ordinances of the Town are faithfully executed~~. Except for purposes of ~~injury inquiry~~, the Commissioners shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.

(c)

It shall be the duty of the Town Manager to supervise the administration of the affairs of the Town under ~~the his~~ charge of the Office of the Town Manger and to make such reports to the Town Council Commissioners as are required ~~it by the Commission. The Town Manager He~~ shall make such recommendations to the Commission concerning the affairs of the Town as may seem ~~to him~~ desirable ~~for expedient and efficient operations and the achievement of Town policy and goals. The Town Manager He~~ shall keep the Town Council Commission advised of the financial condition and future needs of the Town. ~~The Town manager He~~ shall prepare and submit to the Town Council Commission the ~~an~~ annual budget estimate. ~~The Town Manager shall be responsible for operating the Town within the constraints of the budget and~~. ~~He~~ shall render to the Town Council and the public Commission at the regular monthly Town Council Meetings ~~of each and every month~~ a true, accurate and detailed account of all the monies collected or

Comment [DSK13]: Do the extended edits in this sub-section get us where we want to be?

Comment [DSK14]: Do we want to add something to the effect of being responsible for faithful execution of policies and ordinances ...?

Comment [DSK15]: Does this answer what recommendations?

Comment [DSK16]: Some clarification. Okay?

received by ~~the Town~~ ~~him in the performance of his duties and shall promptly turn the same over to the Commission.~~

(d)

In conjunction with the Mayor ~~of the Town of Dewey Beach, the Town Manager~~ ~~he~~ shall sign warrants pursuant to appropriations or resolutions theretofore made for ~~by the Town Council~~ ~~Commission.~~ ~~The Town Manger~~ ~~He~~ shall prepare and submit to the ~~Town Council~~ ~~Commission~~ such reports as may be required by the ~~Town Council~~ ~~Commission~~, ~~and he~~ shall perform such other duties as may be prescribed by this Charter or required ~~of him~~ by ordinance or resolution of the ~~Town Council~~ ~~Commission~~.

(e)

The Town Manager and such other officers of the Town as may be designated by vote of the ~~Town Council~~ ~~Commission~~ shall be entitled to seats in the meetings of the Commission but shall not vote therein.

(f)

The Town Manager shall have charge and supervision of the sewer system, water system, street lighting, streets, gutters, curbs, sidewalks, boardwalks, jetties, piers, parks, and other administrative affairs of the Town and all work relating thereto. ~~The Town Manager~~ ~~He~~ shall have charge of and shall collect all taxes, assessments, rentals, franchise fees, license fees, or other charges due the Town. ~~Town Manager~~ ~~He~~ shall have charge of the administration of all provisions of this Charter and ordinances and resolutions of the ~~Town Council~~ ~~Commission~~ relating to the affairs of the Town when not otherwise provided for by this Charter or by any ordinance or resolution of the ~~Town Council~~ ~~Commission~~.

(g)

~~Town Manager~~ ~~He~~ shall ~~be responsible for the keeping of~~ ~~keep~~ a full and strict account of all monies received and all disbursements made by ~~the Town~~ ~~him~~ and ~~that~~ such accounts shall, at all times, be open to inspection by the ~~Town Council~~ ~~Commission~~.

(h)

~~Town Manager~~ ~~He~~ shall give to the Town of Dewey Beach a bond, if required by the ~~Town Council~~ ~~Commission~~, in such sum and in form with security satisfactory to the ~~Town Council~~ ~~Commission~~ for the faithful performance of the duties of ~~the his~~ ~~Office of Town Manager~~ and the restoration to the Town of Dewey Beach, in case of ~~his~~ death, resignation, or removal from office of all books, papers, vouchers, money other property of whatever kind ~~in his possession~~ belonging to the Town.

(i)

In the event of a vacancy in the Office of the Town Manager for any reason or reasons whatsoever, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges, and powers theretofore reposed in ~~the his~~ predecessor or predecessors in ~~said~~ office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.

(j)

Upon the death, resignation, or removal from the office of the Town Manager, the Mayor, with the approval of a majority ~~vote in a properly-noticed Town Council Meeting of all elected members of the Commission~~ ~~ers present~~, shall appoint some suitable person, who may ~~not be an elected or appointed official~~ ~~or employee~~ of the Town of Dewey Beach, to perform the duties of Town Manager; on an interim basis for ninety (90) days with the option of renewal of the

Comment [DSK17]: There were earlier comments to prohibit active Town officers or employees from serving as interim Town Manager. Is this a consensus recommendation? See also 15d.

appointment for two (2) additional terms of ninety (90) days or until a Town Manager is appointed, whichever period is shorter. (70 Del. Laws, c. 191, 7/10/1995; 78 Del. Laws, c. 346, 7/18/2012)

(k)

The Town Manager shall be responsible for ensuring a staffing plan for all active employees, officers, and agents is maintained and updated annually or as needed as position descriptions and requirements change. Also that annual performance reviews are conducted by the cognizant department heads. In the case of the Town Manager such annual performance review shall be conducted by the Town Council and the results communicated to the Town Manager by the Mayor.

Comment [DSK18]: There was a request for language re: staffing plan and review. Does this take care of concerns?

Section 19 Police Force and Beach Patrol.

Comment [DSK19]: Add beach patrol here

(a)

The Town ~~Council Commissioners~~ may, ~~at its in their~~ discretion, establish a police force ~~and~~ make such rules and regulations as may be necessary for the organization, government and control of a Police Force. ~~Said Police Force They~~ 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 They~~ shall have such other duties as the Town ~~Council Commission~~ shall from time to time prescribe. A qualified Chief of Police shall be hired to head said police force department if so created by the Town Council. The Chief of Police shall serve as a direct report to the Town Manager. Qualifications for said Chief of Police shall be established by the Town Manager with the approval of the Town Council. The Chief of Police shall serve the Town under a contract with a term not to exceed five (5) years and may be removed from the Office of Chief of Police for cause at any time during said employment contract by the Town Manger with the approval of the Town Council. The Town Manager may act so as not to renew or extend the employment contract of the Police Chief for any reason provided such action is approved by the Town Council and due notice is provided to said Chief of Police. It shall be the duty of the Chief of Police to see that the laws and ordinances of the Town are faithfully executed. The Chief of Police shall be responsible for proper administration of all of the affairs of the Police Force and for all matters related to the preservation of peace and order and other duties prescribed by the Town Council and to that end, shall have the authority over all Police Force personnel actions, including removal of any Police Force employee for cause, for establishing appropriate rules and regulations for efficient and effective departmental operations, and for adherence to the departmental budget. ~~The Chief of Police police force~~ shall be subject to the direction of the Town Manager acting on behalf of the Town ~~Council Commissioners~~. (70 Del. Laws, c. 191, 7/10/1995)

Comment [DSK20]: These edits tried to take into account the many suggestions. There might not be one right answer.

(b)

The Town Commissioners may, if it is deemed necessary, make rules and regulations for the organization of a Beach Patrol. The Beach Patrol would, if so organized, enforce regulatory measures ordained by the Commissioners in respect to the cleanliness, uses and enjoyment of the Town Beach front; and, would perform such other duties as the Commissioners may prescribe. In the performance of their duties, they may be vested with all the powers and authorities of a member of the Town Police Force.

Comment [DSK21]: Revise to parallel 19(a).

Section 23 Enumeration of Powers.

(a)

Not by way of limitation upon the power vested in the Town ~~Council Commissioners~~ to exercise all powers delegated by this Charter to the municipal corporation of the Town ~~Commissioners~~ of Dewey Beach except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Town ~~Council Commissioners are is~~ vested by this Charter with the following powers, which may be exercised by said ~~Town Council Commissioners~~ in the interest of good government and the safety, health, and welfare of the Town, its inhabitants and affairs, that is to say:

1.

To provide for ~~the governance of the Town; the maintenance of its peace and order; the provision for its sanitation and the maintenance of its infrastructure; the protection of its beauty and surrounding natural environment; the provision for the health, safety, convenience, comfort and well-being of its population and visitors; the protection and preservation of property, public and private, and the preservation of the character of the Town; the ensurance of financial sustainability; the provision of resilience in the face of global climate change; and the provision for the Town's culture and commerce to extend into the Spring and Fall shoulder seasons and preserve the health, peace, safety, cleanliness, ornament and good order of the Town.~~

Comment [DSK22]: From Sec 4a.

2.

To prohibit, or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements, and games.

3.

To direct the digging down, draining, filling up, cleaning, cutting, or fencing of lots, tracts pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter.

4.

To provide for or regulate the numbering of houses and lots on the streets, and the naming of streets and avenues.

5.

For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the number of buildings or removal of dwelling houses and other buildings; to establish a code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; zone or district the Town and make particular provisions for particular zones or districts with regard to building or building materials; and, generally to exercise all the powers and authorities vested in the legislative body of cities and incorporated towns under by the Constitution and Laws of this State.

6.

To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping offices for providing services for the Town.

7.

To regulate or prevent the use of guns, airguns, spring guns, pistols, sling shots, beanshooters, and any other devices for discharging missiles which might cause bodily harm or injury to property; and to regulate or prevent the use of fireworks, bombs, and detonating works of all kinds.

8.

To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, tapping fee, charge growing out of abatement of nuisances and the like, laying out and repairing sidewalks, or other charge due the Town and to sell the same.

9.

To provide for the collection of and disbursement of all monies to which the Town may become entitled by law, including licenses and fines, where no provision for the collection and disbursement thereof is otherwise provided in the Charter.

10.

To borrow money in the name of the Town for any proper municipal purpose, and in order to secure the payment of the same, to issue bonds or other kinds or forms of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Town ~~Council Commissioners~~ shall select, for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all State, County or municipal taxes; provided, that in no event shall the indebtedness of the Town, for any and all purposes, at any one time exceed in the aggregate One million five hundred thousand dollars (\$1,500,000). (68 Del. Laws, c. 354, 7/10/1992)

11.

To appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency.

12.

To inquire into and investigate the conduct of any ~~office,~~ officer, ~~office,~~ agent, or employee of the Town ~~and to make investigations of all or any~~ municipal affairs, and, for any such purpose or purposes ~~shall have the power to may~~ subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and production of books, papers or other evidence ~~by summary process.~~

13.

To make, adopt and establish all such ordinances, regulations, rules and by-laws, not contrary to the laws of this State and the United States, as the ~~Town Council Commissioners~~ may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which ~~the Town Council they~~ may deem proper and necessary for the governance of the Town; the maintenance of its peace and order; the provision for its sanitation and the maintenance of its infrastructure; the protection of its beauty and surrounding natural environment; the provision for the health, safety, convenience, comfort and well-being of its population and visitors; the protection and preservation of property, public and private, and the preservation of the character of the Town; the ensurance of financial sustainability; the provision of resilience in the face of global climate change; and the provision for the Town's culture and commerce to extend into the Spring and Fall shoulder seasons.~~for the good government of the Town, the protection and preservation of persons and property and of the public health and welfare of the Town and its inhabitants, or designed to prevent the introduction or spread of infectious or contagious diseases, or to prevent nuisances affecting the same.~~ The fiscal year for the Town of Dewey Beach shall begin April 1, and end March 31. (76 Del. Laws, c. 273, 6/30/2008)

a.

Comment [DSK23]: To align language with Sec 29.

Qualified voters of the Town of Dewey Beach, as more specifically defined in Section 10(b) of this Charter, shall have the power to petition to require reconsideration by the Town Council ~~Commissions of Dewey Beach (hereinafter 'the Commissioners')~~ of any adopted Ordinance and to approve or reject it at a referendum election as provided herein: provided, however, that such power of petition and referendum shall not extend to the budget or capital program or any emergency ordinance or any ordinance relating to the appropriation of money.

b.

A Referendum Petition, signed by persons eligible to vote in the annual municipal election as prescribed in this Chapter equal in number to at least thirty-three and one third percent (33 1/3%) of the total number of voters who voted in the annual municipal election immediately preceding the execution of the Referendum Petition with the local address of the person so signing, or three hundred (300) such persons as aforesaid, whichever is greater, and authenticated in accordance with subsection c, below, shall be presented to the Town Manager who shall present to the Town Council ~~Commissioners of Dewey Beach~~ at the next regular meeting of the Town Council ~~Commissioners~~ following the date of adoption of the ordinance sought to be reconsidered, or the Petition shall fail and it shall not be the subject of a referendum. If there are less than twenty-eight (28) days from the date of the adoption of the Ordinance sought to be reconsidered until the next regular meeting of the Town Council ~~Commissioners~~, the Petition for Referendum shall be presented at the first regular meeting following the expiration of the said twenty-eight (28) day period or the Ordinance sought to be reconsidered shall not be the subject of a referendum. Each copy of such petition shall contain and have attached thereto throughout its circulation the full text of the ordinance sought to be reconsidered.

c.

Each original Referendum Petition shall have attached to it, when filed, a sworn, validly notarized affidavit executed by the circulator of the petition stating that said circulator ~~he or she~~ personally circulated the petition, the number of signatures thereon, that all signatures were affixed in said circulator's ~~his or her~~ presence, that said circulator ~~he or she~~ believes them to be the genuine signatures of the persons whose names they purport to be, that each such person who signed it is qualified to sign the petition and that each signer had an opportunity, before signing, to read the full text of the ordinance sought to be reconsidered. In addition, if the circulator of the petition sends the petition to a qualified signer to sign not in the presence of the circulator, the qualified signer signature shall be notarized.

d.

Within twenty (20) days after the petition is filed with the Town Council ~~Commissioners~~ at a regular meeting, the Town Manager shall complete a certificate certifying its sufficiency or specifying any insufficiency, and shall promptly send a copy of the certificate to the circulator of such petition or the acknowledged representative of the Petitioners by certified mail with return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended one (1) time if the circulator files a Notice of Intention to Amend with the Town Manager within two (2) days after receiving a copy of the certificate and files a supplementary petition upon additional papers within five (5) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of this Section concerning form, content, and the affidavit of the circulator. Within five (5) days after a supplemental petition is filed, the Town Manager shall complete a certificate as to the sufficiency of the supplemental petition, as amended, and shall promptly send a copy of such

certificate to the circulator by certified mail with return receipt requested, as in the case of the original petition.

e.

If a petition has been certified to be insufficient and the circulator has not filed Notice of Intention to amend, or if an amended petition has been certified insufficient, the circulator may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the ~~Town Council Commissioners~~. The ~~Town Council Commissioners~~ shall review the certificate at the next regular ~~Town Council Meeting~~ following the filing of such request and approve or disapprove it, and the determination of the ~~Town Council Commissioners~~ as to the sufficiency of the petition shall be final.

f.

Any person or persons, jointly or severally, aggrieved by the decision of the ~~Town Council Commissioners~~ may present to the Superior Court of the State of Delaware, a petition duly verified, setting forth that such decision is invalid, in whole or in part, specifying the grounds of such invalidity. Such petition shall be presented to the Court within thirty (30) days following the determination by the ~~Town Council Commissioners~~ as to the insufficiency of such petition. Upon presentation of the petition, the Court may allow a Writ of Certiorari directed to the ~~Town Council Commissioners~~ to review such decision of the ~~Town Council Commissioners~~ and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner or their attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the Writ shall stay proceedings upon the decision or determination appealed from. The Court may reverse or affirm, wholly or partly, or may modify the determination brought up for review.

g.

Upon the filing of the Petition for a Referendum with the Town Manager, the ordinance sought to be reconsidered shall not be stayed or suspended from taking effect, and such Petition for a Referendum shall terminate upon the happening of any of the following events:

(1)

There is a final determination of insufficiency of the Petition; or

(2)

The Petition is withdrawn by the circulators thereof or sufficient copies thereof are withdrawn so that there are insufficient numbers of signatures as required by this Section; or

(3)

The ~~Town Council Commissioners~~ repeals the ordinance; or

(4)

Thirty (30) days have elapsed after a vote by the voters on the ordinance; or

(5)

There is a final determination by the Superior Court.

h.

The ~~Town Council Commissioners~~ shall reconsider the referred ordinance at the first regular ~~Town Council Meeting~~ after the Petition for a Referendum has been finally determined to be sufficient. If the ~~Town Council Commissioners~~ determines not to repeal the referred ordinance, the referred ordinance shall be submitted to the voters of the Town of Dewey Beach at an election.

i.

The vote of the eligible voters on a referred ordinance shall be held not less than thirty (30) days and no later than sixty (60) days from the date the ~~Town Council Commissioners~~ determined not to repeal the referred ordinance. If the Annual Municipal Election is to be held within the period prescribed in this Section, such referendum shall be considered as part of that election. If the Annual Municipal Election is not to be held within the period prescribed in this Section, the ~~Town Council Commissioners~~ shall provide for a special election. If the ~~Town Council Commissioners~~ fails to hold a referendum within the time specified in this Section, the ordinance for which the petition was filed shall be deemed to be repealed at the expiration of sixty (60) days from the date that the ~~Town Council Commissioners~~ determined not to repeal the referred ordinance and such ordinance shall not be passed in the same form for a period of one (1) year from the effective date of repeal.

i.

The notice of the time and place of holding the said Special Election shall be printed in at least two (2) issues of a newspaper having a general circulation in the Town of Dewey Beach within thirty (30) days immediately preceding the date of the Special Election.

k.

In all electoral proceedings, the Special Election shall be conducted in the manner of the annual election and the ~~Election Judge and Election Board~~, as specified in Section 10 of this Charter and in Chapter 48 of the Code of Dewey Beach, shall oversee the proceedings of the election and have the authority and power to conduct the election.

l.

Immediately after the closing of the polling place or places, the ~~Election Board~~ shall count the ballots for and against the proposition as presented, and shall announce the results thereof. The ~~Election Board~~ shall make a certificate under their hands of the number of votes cast for and against the proposed ordinance and the number of void votes, and shall deliver the same to the Commissioners. The said certificate shall be filed with the Office of the Town Manager.

m.

The form of the ballot of the said Special Section shall be as follows: (78 Del. Laws, c. 346, 7/18/2012)

() For the Referred Ordinance

() Against the Referred Ordinance

n.

If the majority of the voters voting on a referred ordinance vote against such ordinance, it shall be considered repealed upon the certification of the result of the election by the ~~Election Board~~. No ordinance which has been repealed as the result of a referendum shall be passed again in the same form by the ~~Town Council Commissioners of the Town of Dewey Beach~~ for a period of one (1) year from the date of the referendum.

o.

The ~~Town Council Commissioners~~ may, in their sole discretion, elect to adopt an ordinance, except for an ordinance specified not to be the subject of a referendum proceeding in subsection a, hereinabove, subject to a referendum. In such event, the ~~Town Council Commissioners~~ shall, at the same time such ordinance is adopted, include in the language of said ordinance that such ordinance shall be the subject of a referendum. Upon the passage of the ordinance adopted subject to a referendum, such ordinance shall be suspended from taking effect until thirty (30) days after the results of the referendum, such referendum are returned indicating that the ordinance is approved by referendum. (78 Del. Laws, c. 346, 7/18/2012)

Comment [DSK24]: Should this be Inspector of the Election and Election Officials as used in 10c?

Comment [DSK25]: Officials?

Comment [DSK26]: Officials?

Comment [DSK27]: Officials?

Nothing contained herein shall operate so as to require the ~~Town Council Commissioners~~ to exercise ~~its their~~ discretion to submit any ordinance to a referendum; and nothing contained herein shall operate to restrict the right of the eligible voters of the Town of Dewey Beach to initiate a referendum pursuant this Section. However, the decision of the Town Council Commissioners to submit an ordinance to a referendum shall, in the case of such ordinance, constitute the only referendum to which such ordinance shall be subjected; and there shall be no right to subject such ordinance to an additional referendum. (78 Del. Laws, c. 346, 7/18/2012) 14.

The ~~Town Council Commissioners of the Town of Dewey Beach~~ shall have the authority to raise funds by charging a fee to owners of vehicles which are parked in the streets and other areas accessible to the public.

15.

The ~~Town Council Commissioners of the Town of Dewey Beach~~ shall have the authority to grant licenses and impose fees for licenses, issue permits, and regulate any activity within the corporate limits specifically including any beach property whether previously dedicated, owned by the State of Delaware, or the Town, except as subsection (b) of this section may apply.

16.

~~The Town Council shall have the authority to~~ levy and collect tax upon the renting or leasing of residential property located within the municipal boundaries of Dewey Beach, except that no accommodations tax for a residential rental shall be collected upon a ~~valid rental agreement or valid lease agreement with an initial~~ term of at least one (1) year. The accommodations tax on a residential rental shall be as set from time to time by the Commissioners of Dewey Beach, but not to exceed three percent (3%) of the rent or lease amount unless approved by referendum. This residential rental accommodations tax does not apply to the rental or lease of any property being assessed a public accommodation lodging excise tax under 30 Del. Laws, c. 61 Chapter 61 of Title 30. (77 Del. Laws, c. 29, 5/18/2009)

(b)

Notwithstanding any provision in this Section or in this Act to the contrary, the Town Council Commissioners shall have no power or authority to impose or require any fee, tax, license or permit regarding use of the beaches by persons for individual recreational purposes.

Comment [DSK28]: Now might be a good time to see what the State is considering regarding residential rental accommodation taxes and possibly remove this exclusion.