

**Section 17 Audit Committee/Auditors.**

**(78 Del. Laws, c. 346, 7/18/2012)**

**(a)**

The Audit Committee shall be composed of not less than three (3) ~~voters property owners, the majority of whom are bona fide residents of the Town of Dewey Beach,~~ **registered Dewey Beach** who have no relationship to the Town that may interfere with the exercise of their independence from the Town's management and the Town. The Chairperson and members of the Committee shall be appointed by the **Town Council** ~~at each annual meeting~~ to serve for a term of one (1) year. Each member of the Committee shall be financially competent and at least one (1) member shall have accounting or related financial management experience. The principal purpose of the Committee is to provide oversight of the annual audit of the Town financial statements, to recommend the hiring of an independent financial audit firm, to assess the qualifications and independence of the firm and to negotiate a price for the audit, to review the performance of the independent audit firm, to review the firm's audit report and assessment of the Town's accounting and reporting practices and internal control systems, and to recommend acceptance or rejection by the **Town Council** of the audit report.

**(b)**

It shall be the responsibility of the Independent Auditors to perform an audit of the annual financial statements of the Town of Dewey Beach in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States. The Auditors, on or before the 15th day of August following the Town's fiscal year end shall deliver their report, including their opinion as to whether the Town's basic financial statements, together with required Supplemental Information, present fairly, in all material respects, the financial position of the governmental activities and each major fund of the Town, and the respective changes in financial position and cash flows, where applicable, in conformity with accounting principles generally accepted in the United States of America. In addition, other Supplemental Information for the General Revenue and Special Revenue Funds shall be provided with comparative amounts for the preceding ~~three (3) fiscal years.~~ **three (3) fiscal years.** A summary of the report shall be printed **by the Town** in a newspaper which has general circulation in the Town in the issue immediately succeeding **acceptance of the Independent Auditors' annual report,** ~~their~~ with a statement that the full text of the report can be viewed on the Town's website, where a full copy of the report shall be accessible to visitors to the website. The financial statements are the responsibility of the **Town Manager** ~~Town's management.~~ The Independent Auditor's responsibility is to render an opinion on the Town's financial statements based on ~~its~~ **its** audit examination.

**Section 18 Town Solicitor.**

**(78 Del. Laws, c. 346, 7/18/2012)**

The ~~Town Council Commissioners~~ **Town Council** may select and appoint a Town Solicitor who shall be removable at the pleasure **by majority vote** of the **Town Council in a properly-noticed Town Council Meeting of Commissioners present of Dewey Beach** either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware. It shall be ~~the Town Solicitor's his~~ **the Town Solicitor's** duty to give legal advice to the **Town Manager, the Town Council either as a body or through a designated Commissioner liaison, any individual**

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Comment [DSK1]: As per suggestion by Audit Committee Chair

Comment [DSK2]: To provide flexibility

Comment [DSK3]: As per Chair's recommendation; this is current process

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Commissioners and ~~any other officers~~ of the Town and to perform other legal services as may be required ~~of him~~ by the Town Manager or Town Council~~Commissioners~~.

**Comment [DSK4]:** This has been contentious in the past; is this a good fix?

**Section 20.1 Alderman and Assistant Alderman.** ~~[[admin edits]]~~

**(78 Del. Laws, c. 232, 5/1/2012)**

The Commissioners are authorized to establish an Alderman’s Court in a manner consistent with Constitution and laws of the State of Delaware.

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**Section 20.2 Appointment.**

**(78 Del. Laws, c. 232, 5/1/2012)**

An Alderman and Assistant Alderman shall be recommended by the Town Council, appointed by the Governor and confirmed by the Delaware State Senate. Once confirmed the Alderman and/or Assistant Alderman shall be sworn into office by the Mayor, and evidence of ~~such his or her~~ appointment shall be recorded at the Recorder of Deeds in Sussex County.

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**Section 20.3 Appointment and Reappointment Nomination.**

**(78 Del. Laws, c. 232, 5/1/2012)**

When a vacancy occurs the Town Council shall by majority vote in a properly-noticed Town Council Meeting of Commissioners present, submit a list of one or more qualified candidates and the application(s) and supporting documentation to the Governor for consideration of appointment. Not less than thirty (30) days prior to the expiration date of an Alderman’s or Assistant Alderman’s term, the Town Council shall by majority vote in a properly-noticed Town Council Meeting of Commissioners present, determine whether or not to recommend reappointment of the Alderman or Assistant Alderman for an additional term. The Town Council shall submit a letter of recommendation to the Governor for consideration of reappointment, or alternatively, its written recommendation of one or more qualified candidates along with their applications and supporting documentation to the Governor for consideration of appointment.

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**Section 20.4 Term of Office.**

**(78 Del. Laws, c. 232, 5/1/2012)**

The Alderman and Assistant Alderman shall serve a two – year term and shall remain in office until either reappointed or a successor is duly qualified.

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**Section 20.5 Removal.**

**(78 Del. Laws, c. 232, 5/1/2012)**

An Alderman or Assistant Alderman may be censured or removed subject to the provisions of Article IV, Section 37 of the Delaware Constitution of 1897 and the Rules of the Court on the Judiciary. An Alderman or Assistant Alderman may also be replaced upon expiration of a term, following Senate confirmation of a new Alderman or Assistant Alderman. If any Alderman or Assistant Alderman has been removed from office by Senate confirmation of a new nominee or by action of the Court on the Judiciary, said Alderman or Assistant Alderman

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~~he/she~~ shall, within five (5) days of the Senate confirmation or Court on the Judiciary action, deliver to the Mayor all the books and papers belonging to the Town, and shall within five (5) days pay over to the Treasurer all Town moneys in said Alderman or Assistant Alderman's ~~his/her~~ hands. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or Assistant Alderman, the Mayor may require the auditor of the Town to make an audit of the books and papers of the official who has been replaced. Upon the neglect or failure to deliver all the books and papers to the Mayor within the time specified by this Charter, or to pay over all of the moneys to the Treasurer within the time specified, the Alderman or Assistant Alderman, so replaced, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$ 100) for each day that said Alderman or Assistant Alderman ~~he~~ fails to deliver the books and papers to the Mayor or to pay over all moneys to the Town~~reasurer~~.

#### Section 20.6 Vacancy.

**(78 Del. Laws, c. 232, 5/1/2012)**

In the absence of the Alderman, or when a vacancy occurs in the office of Alderman, the Assistant Alderman shall exercise all the powers, duties, and responsibilities of the Alderman as set forth in this Charter. When a vacancy occurs for an Alderman and there is no Assistant Alderman to act as Alderman, and the Delaware State Senate is recessed for more than 6 weeks, the Town Council may elect in a properly-noticed Town Council Meeting to have a retired Magistrate act as Alderman pending confirmation of a nominee with the Delaware State Senate. Such retired Magistrate must meet the appointment qualifications of 10 Del. C. Section 9211(a) to serve in such capacity, and shall receive such compensation as may be established by the Town Council. A retired Magistrate acting as Alderman shall have all powers, duties, and responsibilities of the Alderman as set forth in this Charter.

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#### Section 20.7 Qualifications.

**(78 Del. Laws, c. 232, 5/1/2012)**

Any person appointed to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, a United States citizen, of good character and reputation, shall live within Sussex County, and shall not be a member of the Town Council or otherwise an officer or employee of the Town of Dewey Beach.

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#### Section 20.8 Oath of Office.

**(78 Del. Laws, c. 232, 5/1/2012)**

Within 14 days of Senate confirmation the Alderman or Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of office honestly, faithfully, diligently, and to uphold and enforce the Charter of the Town of Dewey Beach and ordinances duly enacted by the Town Council of the Town of Dewey Beach.

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#### Section 20.9 Duties.

**(78 Del. Laws, c. 232, 5/1/2012)**

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It shall be the duty of the Alderman and Assistant Alderman to adjudicate actions brought under any ordinances legally enacted or established by the government of the Town and to carry into effect all legally binding orders and directions of the Town Council made pursuant to any law of this State or its Constitution. In carrying out the duties of the office, an Alderman or Assistant Alderman shall comply with the ethical responsibilities required of Aldermen in this state and shall operate the court in accordance with the Criminal Rules of Procedure for the Alderman and Mayor Courts of the State of Delaware.

**Section 20.10 Compensation.**

**(78 Del. Laws, c. 232, 5/1/2012)**

The compensation of the Alderman and Assistant Alderman shall be fixed by the Town Council and approved in conjunction with the Town Council’s adoption of the Town operating budget. If no change is proposed and approved by the Town Council, the previously established compensation rate shall continue in effect until revised by a majority vote of the Town Council. Such compensation shall not be contingent upon or related to the amount of any civil or penal fines imposed or collected through the Alderman Court and shall not be reduced during the term of office.

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**Section 20.11 Alderman’s Docket.**

**(78 Del. Laws, c. 232, 5/1/2012)**

The Town Council shall procure suitable records for the use of the Alderman and the Assistant Alderman. Such records shall be known as the “Alderman’s Docket”. The Alderman and Assistant Alderman shall record all official acts and proceedings in the Alderman’s Docket. All criminal matters, but not civil matters, shall be entered into the Delaware Criminal Justice Information System (DELJIS) as required by law.

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**Section 20.12 Jurisdiction.**

**(78 Del. Laws, c. 232, 5/1/2012)**

The Alderman and Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace, offenses and violations of any civil or criminal ordinance of the Town committed within the corporate limits of the Town of Dewey Beach. As to such offenses or violations over which they are given jurisdiction by this Charter or by any other law of the State of Delaware, the Alderman and Assistant Alderman shall be authorized and empowered to hold for bail, set bail, impose fines, or imprison, for each offense or violation in accordance with the penalties provided by this Charter, by any Town Ordinance enacted hereunder, or as provided by any law of the State of Delaware; provided however, that the maximum fine which the Alderman or Assistant Alderman may impose shall never exceed the limits established by this Charter.

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**Section 20.13 Civil and Criminal Penalties; Costs.**

**(78 Del. Laws, c. 232, 5/1/2012)**

Neither the Alderman nor the Assistant Alderman shall impose any penalty in excess of **One Thousand (\$1,000)** ~~Five Hundred Dollars (\$500)~~ exclusive of costs nor imprison any offender for

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**Comment [DSK5]:** Proposal to raise to \$1,000 as typical in region for misdemeanors, and to flag to Council that they might want to review this value and possibly increase

more than thirty (30) days, or both, except as otherwise specifically provided in this Charter or by state statute; but the Alderman and Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by ordinance or resolution of the Town Council.

### Section 20.14 Monthly Report to Town Council.

**(78 Del. Laws, c. 232, 5/1/2012)**

The Alderman and Assistant Alderman shall prepare and submit a written monthly report to the Town ~~Manager Council~~ reporting all fines and penalties imposed during the preceding calendar month and shall pay to the ~~Treasurer of the~~ Town all such fines and penalties at such times as the Town ~~Manger Council~~ shall direct. Neither the Town ~~Manager, Town~~ Council nor the Mayor may establish or communicate an expected revenue budget for the Alderman Court.

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**Comment [DSK6]:** Change in chain of command to place operations in hands of Town Manager (while the Alderman is hired/fired by the Council, this is an administrative issue)

### Section 20.15 Alderman Court Facilities and Staff.

**(78 Del. Laws, c. 232, 5/1/2012)**

The Town of Dewey Beach shall provide adequate and appropriate facilities and staff to facilitate the independent judicial operations of the Alderman Court. Facilities shall be separate from conflicting town operations, including, but not limited to, police agency functions. The town may house the Alderman Court in a common municipal building, so long as the Alderman's Court is provided space physically separate from other town functions and is further situated in such a manner to foster public confidence in the independence of the Court. Likewise, staff assigned to the Court shall not be shared with conflicting town government operations.

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### Section 21 Remedies, Powers and Methods for the Collection of Assessments and other Charges Due the Town. [[admin edits and questions]]

(a)

A remedy by distress as now prescribed by law is hereby preserved to the Town Council ~~Commissioners~~ for the collection of any assessments, fees, warrants or other charges for which they may be responsible.

(b)

At any time after the delivery of the duplicate annual tax list or warrant or any other list of charges due the Town of Dewey Beach, the Town Manager may in the name of the Town Council Commissioners of Dewey Beach institute suit before any Court of the State of Delaware, in any of the Counties of the State, for the recovery of the unpaid tax, assessment, license fee, or other charge, in an action of debt, and upon judgment obtained, may issue Writs of Execution as in case of other judgments recovered. **(70 Del. Laws, c. 191, 7/10/1995)**

**Comment [DSK7]:** This provides for due process for unpaid debts owed to the town

(c)

The said execution shall constitute a lien upon ~~any or all the~~ personal and/or real property of the ~~taxable~~ within the County where the judgment shall have been obtained, which by virtue of such execution shall be levied upon within thirty (30) days after the issuance thereof, and such lien shall have priority over all other liens against said personal property created or suffered by the taxable, except such liens thereon which may have been created in respect to County Taxes, although such other liens be of date prior to the time of the attachment of the said tax liens.

**Comment [DSK8]:** Need legal opinion on this language

**Comment [DSK9]:** Should this be "responsible party or parties", or something else?

(d)

No taxes or assessments may be imposed on real or personal property or tax or assessment rates changed unless approved by referendum.

**Section 22 Town Budget.** ~~[[admin edits: suggested changes in budget content and responsibility]]~~

(a)

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)

(b)

Annually each year and not later than the last week in February, the ~~Town Manager Commissioners~~ shall prepare a ~~rough~~ draft of ~~the annual~~ Town Budget and submit the same to ~~the Town Council for approval~~. From this ~~rough~~ draft, the Town ~~Council Commissioners of Dewey Beach~~ shall, not later than the second Saturday of March of each year, prepare and approve by majority vote in a properly-noticed Town Council Meeting of Commissioners present the Town Budget, containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year. (78 Del. Laws, c. 346, 7/18/2012)

(c)

The Budget shall contain the following information: (78 Del. Laws, c. 346, 7/18/2012)

1.

A detailed estimate showing the expense of conducting each department and office of the Town for the ensuing fiscal year, including in aggregate the total compensation to be paid to all employees within each department and office.

2.

The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof.

3.

The amount of the debt of the Town, together with a schedule of maturities of bond issues, and the amount of any reserve funds.

4.

An itemized statement of all other estimated expense to be incurred in the affairs of the Town.

5.

A statement of the amount required for interest on the bonded debt, the amount necessary to pay any Bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds".

6.

An estimate of the amount of money to be received from taxes, assessments, and all other anticipated income of the Town from any source or sources whatsoever.

(d)

The Town ~~Council Commissioners~~ shall, so far as possible, adhere to the Budget so adopted in the making of appropriations and the revising of schedules for the various fees, fines and penalties, and taxes due to the Town. So too, the Town Manager shall, so far as possible, ensure that the operations of each department and the Town as a whole adhere to the budget so adopted and that all monies due the Town are collected in an effective and efficient manner.

**Comment [DSK10]:** Suggestion by Audit Committee chair

**Comment [DSK11]:** Department and office are vague terms; should we resolve this or flag for the Council to fix?

**Comment [DSK12]:** Gets back to the earlier comments about the Council setting salaries

**Comment [DSK13]:** This is not currently done. Could this be deleted or changed to reflect the value of real property and major assets which are listed in the Balance Sheet?

**Comment [DSK14]:** This is not currently in the budget, but is in the Balance Sheet.

**Comment [DSK15]:** As per CCRC 3/10 meeting discussions

Section 24 Collection of Charges Due the Town.

(a)

In the collection of license fees, charges growing out of abatement of nuisances, or other charges due the Town and authorized to be levied and charged against the owner or owners of property within the Town, the collection thereof shall be under the supervision of the Town Manager. It shall be the duty of the Town Manager to collect all such rentals, bills, fees, and charges and as appropriate. ~~He shall, in conjunction with the police force~~ keep the Town Council Commissioners advised as to any and all failures or neglects to pay the same.

(b)

In respect to the amount of any such license fees, charges growing out of abatement of nuisances, laying out and repairing sidewalks, or other charges due the Town and authorized to be levied and charged against the owner or owners of property within the Town, and which owner or owners of property within the Town shall have failed or neglected to apply the same within the time prescribed by the provisions of this Charter, or a duly adopted Ordinance of said Town and should the required procedure, if any there be, have been complied with as regards the imposition thereof against such owner or owners, the Town Council Commissioners shall issue a warrant ~~to the Town Manager~~ directing the Town Manager him to collect the same against the person or persons, firm or firms, corporation or corporations from which it shall be due, together with interest from the due date and other charges attendant thereto. Thereafter, from the date of the issuance of any such warrant or warrants, the amount or amounts therein provided shall be and constitute liens upon the respective property or properties of such owner or owners upon which or for which any such rentals, bills, fees or other charges shall have been made and such liens shall, for a period of two (2) years from the date of such warrant or warrants, have priority over any liens, encumbrances or conveyances except tax liens, general or special sewer assessment liens and prior liens of a like nature.

(c)

Nothing contained in this Section shall be construed as a limitation upon the Town Council Commissioners of Dewey Beach to establish and fix fines, or other penalty, in a proper case, for neglects or failures nor shall any fines imposed by a judicial officer with reference to any such neglects so enrolled or failures be construed as being within the provisions hereof. (70 Del. Laws, c. 191, 7/10/1995)

Section 25 Removal of Obstruction, Nuisances, and Unsanitary Conditions. [admin edits: when the Council should be involved in abating a nuisance and due process;

(a)

In addition to the power to impose fines and penalties for the maintenance of obstructions, nuisances, and unsanitary conditions, as those terms may be defined by the Town Commissioners, if the Town Council Commissioners either upon its their own inspection or upon information obtained from the Town Manager ~~or Police Force~~, shall deem that such obstruction, nuisances, or unsanitary condition ought to be removed or abated in a timely manner ~~as the case may be~~, the Town Council Commissioners shall enact an ordinance or adopt a resolution or both in a properly-noticed Town Council Meeting, to that effect and thereupon shall direct the Town Manager to forward, to the person or persons continuing or causing such obstruction, nuisances, or unsanitary condition, or to the person or persons who are responsible

**Comment [DSK16]:** Suggest flagging this entire section for the Council to pass onto the town attorney for a modern update, and in so doing remove the Council (as currently in place in subsection b) from the process

**Comment [DSK17]:** Not current practice, is this needed?

**Comment [DSK18]:** Marcia and Courtney raised question: when can a penalty be levied?

**Comment [DSK19]:** Does this address the due process concern?

**Comment [DSK20]:** Not clear what this subsection means. Any ideas?

**Comment [DSK21]:** Recommend referral to the town attorney for a total re-write, to modernize and to align with the goal that the Council establishes policy and ordinance defining obstructions, nuisances & unsanitary conditions and the town manager enforces the law – get the Council out of the enforcement process.

**Comment [DSK22]:** When should the Council get involved?

for its existence or continuance, by the mails of the United States, in a sealed wrapper addressed to ~~said person's or persons' his or their~~ last and best known post office address, a notice to remove or abate the same as soon as may be possible. If such person or persons refuse or neglect, for the space of ~~five-fifteen~~ (15) days after such notice is mailed, to remove or abate the same, the ~~Town Council Commissioners~~ may have a warrant issued in the name of the ~~Town Commissioners~~ of Dewey Beach. The warrant shall command ~~said person or persons him~~ forthwith to remove or abate such obstruction, nuisance, or unsanitary condition. The Town Manager shall ~~forthwith proceed~~ to remove or abate the same and, to that end, ~~he~~ shall have full power and authority to enter into and upon any lands and premises in the Town. ~~The Town Manager He~~ shall likewise have the authority to take ~~with him~~ such assistants, implements, vehicles or other things as may be necessary and proper to do and perform all matters and things in connection with the removal or abatement of such obstruction, nuisance, or unsanitary condition.

Comment [DSK23]: Question of due process.

(b)

At the meeting of the Town ~~Council Commissioners~~ next succeeding the delivery of the warrant to ~~the Town Manager him~~, the Town Manager shall make a return to the ~~Town Council Commissioners~~ of ~~the his~~ proceedings upon the warrant and shall specify the costs and expenses of all necessary work, labor, and proceedings incurred by ~~the Town him~~ in the abatement or the removal of the same.

(c)

At such meeting, the ~~Town Council Commissioners~~ shall determine, from the return of the Town Manager, the costs and expenses of all necessary work, labor, and proceedings in reference to the abatement or removal of such obstruction, nuisance or unsanitary condition. The ~~Town Council Commissioners~~ shall issue or have issued a warrant, containing an itemized account of that information, together with the name and last and best known address of the person ~~or persons~~ from whom the ~~Town Council Commissioners~~ shall determine the amount to be due and shall deliver such ~~warrant~~ to the Town Manager. The warrant shall command ~~Town Manager him~~ forthwith to collect the amount stated to be due thereon from the person or persons designated therein. The Town Manager shall forward to such person or persons, in a sealed wrapper, a true and correct copy of the warrant by depositing the same in the United States mails and addressed to such person's or persons' last and best known post office address. If such person or persons shall refuse or neglect to pay the same to the Town Manager for the use of the Town within thirty (30) days from the date of the mailing of such true and exact copy of the warrant, the Town Manager shall then be authorized and required to collect the same in any of the manners hereinbefore provided. (70 Del. Laws, c. 191, 7/10/1995)

Comment [DSK24]: Again, a question of due process.

## Section 26 Borrowing Money and Issuance of Bonds.

(a)

The ~~Town Council Commissioners of Dewey Beach~~ may borrow money, which in the aggregate shall not exceed One million five hundred thousand dollars (\$1,500,000), and to secure the payment of the same, ~~and~~ is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the Town of Dewey Beach, or such other security or securities as the ~~Town Council Commissioners~~ shall elect, for the payment of the principal thereof and the interest due thereon. (69 Del. Laws, c. 45, 6/25/1993)

Comment [DSK25]: While the CCRC sees no reason to change, possibly flag to Council to review this number in context of potential future infrastructure needs

Comment [DSK26]: Is this the right solution to obviously missing text?

(b)

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the Commissioners of Dewey Beach in pursuance hereof shall be exempt from all State, County or municipal taxes.

(c)

This power or authority to borrow money may be exercised by the ~~Town Council Commissioners of Dewey Beach~~ to provide funds for, or to provide for the payment of, any of the following project or purposes:

1.

Refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein;

2.

Meeting or defraying current annual operating expenses of the Town in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees, or other charges due the Town and available, when paid, for meeting or defraying current annual operating expenses of the Town;

3.

Erecting, extending, enlarging, maintaining, and repairing any plant, building, machinery, or equipment or purchasing of any lands, easements and rights-of-way which may be required therefore;

4.

Defraying the cost to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter.

(d)

In those cases where the power or authority hereby vested in the ~~Commissioners of Dewey Beach~~ Town Council is sought to be exercised for the purpose of refunding any or all outstanding bonds or other indebtedness of the Town at a rate of interest equal to or less than the indebtedness thereby sought to be refunded and in all instances provided for in subparagraph 2 above, it shall not be necessary for the ~~Town Council Commissioners of Dewey Beach~~ to call a special election of the ~~individuals who satisfy any of the qualifications to vote in the Town's Annual Municipal Election as defined in Section 10 (b) of this Charter~~ taxables of the Town to secure their approval of such borrowing.

(e)

In all other instances the power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any other purpose or purposes above specified shall be only exercised in the following manner.

### Section 27 Contracts.

(a)

All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be awarded to the bidder submitting the lowest and best bid; provided, however, that competitive bidding shall not be required in any of the following circumstances:

1.

**Comment [DSK27]:** Language proposed to replace taxables, inhabitants, etc everywhere

**Comment [DSK28]:** Unknown missing text. Possibly not necessary, but propose flagging to Council for legal review to amend or delete

The aggregate amount involved is not more than ~~Two-Five~~ Thousand Dollars ~~(\$2,000.00~~5,000.00);

**Comment [DSK29]:** Propose updating amount

~~2.~~  
The purchase or contract is for ~~personal or professional services~~ for which the aggregate amount involved is not more than ~~Ten Thousand Dollars (\$10,000.00)~~;

**Comment [DSK30]:** Propose a cap on this exemption.

~~3.~~  
The purchase or contract is for any service rendered by a university, college or other educational institution;

~~4.~~  
The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision thereof;

~~5.~~  
The purchase or contract is for property or services for which it is impracticable to obtain competition;

~~6.~~  
The public exigency as determined by the Town ~~Council Commissioners~~ will not permit the delay incident to advertising;

~~7.~~  
~~Reserved~~The materials to be purchased are to be used to complete a project under the supervision of the ~~Town Manager~~;

**Comment [DSK31]:** Propose deletion of town-manger-project exclusions

~~8.~~  
The purchase or contract is for property or services for which the ~~Town Council Commissioners~~ determines the prices received after competitive bidding are unreasonable as to all or part of the requirement or were not independently reached in open competition;

~~9.~~  
A public emergency as determined by the ~~Town Council Commissioners~~ exists.

### Section 28 Limitation of Actions.

No action, suit or proceeding shall be brought or maintained against the Town of Dewey Beach for damages, either compensatory or punitive, on account of any physical injury or injuries, death or injury to property by reason of the negligence of the Town ~~Council Commissioners of Dewey Beach~~ or any of ~~the its~~ departments, officers, agents, or employees ~~of the Town of Dewey beach~~ thereof, unless the person by or on behalf of whom such claim or demand is asserted within ninety (90) days from the happening of such injury or the suffering of such damage, shall notify the ~~Town Manager Commissioners of Dewey Beach~~ in writing of the time, place, cause, character and extent of the injuries sustained so enrolled or damages suffered. Any suit brought against the ~~individual~~ Commissioners of Dewey Beach shall be against them only in their capacity as representatives of the Town Government and not as individuals.

**Comment [DSK32]:** Flag to Council for legal review and update. State requirement is 2 years.

### Section 29 Compendium.

It shall be the duty of the ~~Town Council Commissioners to direct the Town Manager~~, at reasonable times, or time, to compile the ordinances, codes, orders, and rules of the ~~Town Commissioners~~ of Dewey Beach. ~~The Town They~~ shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time,

upon the enactment of new ordinances or resolutions, codes, rules and regulations, or upon the enactment of amendments to the same, the Town Commissioners shall enroll the same in the minutes of the Town Council Commissioners and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. The Town Manager They shall furnish to the Mayor and Commissioners of the Town of Dewey Beach copies of such new ordinances or resolutions, codes, rules and regulations, or amendments thereto thereof as they are enacted; and therefrom may cause supplements to be compiled and printed to any compendium thereof heretofore printed as above provided. The Commissioners may provide for indemnification of elected and appointed official from liability arising out of their acts performance in good faith on behalf of the Town.

**Comment [DSK33]:** Propose moving to Section 30.

### Section 30 Investigations and Indemnification.

**Comment [DSK34]:** To reflect change in content

(a)

The Town Council Commissioners of Dewey Beach shall have the power to inquire into and investigate the conduct of any office, officer or employee of the Town and to make investigations of all municipal affairs, and, for any such purpose or purposes, shall have the power to subpoena witnesses, administer oaths or affirmations and compel the attendance of witnesses and the production of books, papers or other evidence.

**Comment [DSK35]:** Changes to align with 23(a)12.

(b)

At those times when by majority vote in a properly-noticed Town Council Meeting of those Commissioners present it is agreed that a review of the actions(s) of any officer or employee of the Town would be in the best interest of the Town the Town Council may suspend with pay said officer or employee from duty during such investigation provided the procedures of the Town Employee Manual are properly followed.

**Comment [DSK36]:** Proposed text as requested

(c)

The Commissioners may provide for indemnification of elected and appointed officials from liability arising out of their acts performed in good faith on behalf of the Town

**Comment [DSK37]:** From Section 29.

### Section 31 Survival of Powers and Validating Section.

(a)

All powers conferred upon or vested in the Town of Dewey Beach or the Town Council Commissioners of Dewey Beach 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 Dewey Beach and/or the Town Council Commissioners of Dewey Beach precisely as if each of said powers was expressly repeated in this Charter.

(b)

Excepting as may be herein provided expressly to the contrary, every and all Sections or parts of Sections of this Act shall become effective immediately upon its approval.

(c)

The authority vested in the Town Commissioners of Dewey Beach and the residents and individuals otherwise eligible to vote in taxables of the Town of Dewey Beach by Section I of

this Act shall apply with equal force and effect to all loans which may be required to raise funds necessary to replace and/or repair all such public property or estate as might have been so destroyed or damaged at a time or times preceding the enactment and approval of this Act as well as at a time or times after the date of the enactment and approval hereof.

[\(d\)](#)

All acts or part of acts inconsistent with or in conflict with the provisions of this Act are hereby repealed to the extent of such inconsistency only.

[\(e\)](#)

If any part of this Act shall be held invalid or unconstitutional, such holding shall not, be deemed to invalidate the remaining provisions hereof.

[\(f\)](#)

This Act shall be taken as and deemed to be a public act of the State of Delaware.

### **Section 32 Effective Date of Act.**

This Act shall become effective on being signed into law by the Governor of the State of Delaware.

### **Section 33 Prohibition on Gambling.**

**(76 Del. Laws, c. 273, 6/30/2008)**

Except for lotteries as conducted by the State and nonprofit charitable gaming as permitted by State Law, gambling shall be prohibited within the Town limits.

Approved June 29, 1981.

**(63 Del. Laws, c. 59, 6/29/1981; 65 Del. Laws, c. 255; 68 Del. Laws, c. 354; 69 Del. Laws, c. 45; 70 Del. Laws, c. 191; 72 Del. Laws, c. 425; 74 Del. Laws, c. 369, 7/19/2004; 74 Del. Laws, c. 370, 7/19/2004; 76 Del. Laws, c. 273, 6/30/2008 77 Del. Laws, c. 29, 5/18/2009; 77 Del. Laws, c. 42, 6/16/2009, 78 Del. Laws, c. 232, 5/1/2012; 78 Del. Laws, c. 346, 7/18/2012)**

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