

Chapter C. Charter of the Town of Dewey Beach

Section 1. Incorporation.

(83 Del. Laws, c. 156, 9-15-2021)

The municipal corporation of the State of Delaware in Sussex County known as "the Town of Dewey Beach" shall continue to be a body politic by and under the name "Commissioners of Dewey Beach," with power to govern by ordinances, rules, resolutions, and regulations for municipal purposes that are not in conflict with the provisions of this Charter, the Constitution and Laws of the State of Delaware, or of the United States. The "Commissioners of Dewey Beach" are also referred to in this Charter as the "Commissioners," "Town Council," "Council," "Corporation," and "Town."

Section 2. Territory and Limits.

(a)

The limits and bounds of the Town of Dewey Beach are hereby established and declared to be as follows:

(b)

Starting at a point at the low water mark of the Atlantic Ocean shoreline, said point being the northerly boundary of Rehoboth-by-the-Sea; thence easterly into the Atlantic Ocean 500 feet; thence southerly and parallel to the shoreline to a point which is on an easterly extension of the southern boundary of Collins Street; thence in a westerly direction along the southern boundary of Collins Street to Route No. 1; thence in a southerly direction along the easterly right-of-way of Highway One, to a point approximately 65 feet south of Anchor Way; thence in a westerly direction to the eastern shore of the Rehoboth Bay; thence in a northerly direction and with the meanderings of the Rehoboth Bay shoreline to a point on the Rehoboth Bay westerly of Bayard Avenue, said point being the boundaries of Rehoboth-by-the-Sea; thence with the boundaries of Rehoboth-by-the-Sea Bayard Avenue, northerly across Route 1; thence with the westerly boundaries of Comegys to its easterly side; thence across Route 1 to the southerly edge of Silver Lake; thence with Silver Lake and the boundaries of Rehoboth-by-the-Sea to a point; thence easterly with the boundaries of Rehoboth-by-the-Sea, said boundary being the southerly line, and extensions thereof, of Block 51 as shown on the plot plan of Rehoboth-by-the-Sea, to the low water mark of the Atlantic Ocean, the point and place of beginning.

The area designated by this description includes all of Rehoboth-by-the-Sea (as shown on a plot plan on file in Georgetown, Delaware) and all the area south of Rehoboth-by-the-Sea which is bounded on the east by the Atlantic Ocean, on the west by the Rehoboth Bay and which extends southward to the south side of Collins Street on the ocean block and 65 feet southerly of Anchor Way on the bay side and also includes 500 feet of the Atlantic Ocean adjacent to the shoreline.

(c)

The Town Council may cause a survey and plot to be made of the Town, and the plot or any supplement thereto, when so made and approved by the Town Council, and signed by the Mayor who shall affix thereto the municipal corporate seal of the Town, attested by the Town Manager, and upon being recorded in the Offices of the Recorder of Deeds of the State of Delaware, in and for Sussex County, shall be, or the record thereof, or a duly certified copy of said record, evidence in all Courts of Law and Equity of this State.

(83 Del. Laws, c. 156, 9-15-2021)

(d)

(1)

The Town Council has the power to annex additional territory adjoining the corporate limits of the Town of Dewey Beach as hereinbefore set forth or as hereafter extended pursuant to the procedure hereinafter set forth and to apply to all such additional territory all laws, ordinances, resolutions, and policies in force with the Town so far as they may be locally applicable. The Town Council shall adopt a Resolution proposing to the property owners and the residents of both the Town and of the Territory proposed to be annexed that the Town of Dewey Beach proposes to annex certain territory which adjoins its then limits and territory. The Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution setting forth the information shall be printed in a newspaper having a general circulation both in the Town of Dewey Beach and in the territory proposed to be annexed at least 30 days before the date set for the public hearing, as well as posted in the Town of Dewey Beach at Town Hall and the Life Saving Station, and on the Town's website. In addition, a reasonable effort must be made to send a personal letter to all registered voters and individuals who are property owners of record in the Town of Dewey Beach and all individuals who are property owners of record in the territory proposed to be annexed at least 30 days before the date set for the public hearing.

(78 Del Laws, c. 346, 7/18/2012; 77 Del. Laws, c. 42, 6/16/2009; 83 Del. Laws, c. 156, 9-15-2021; 65 Del. Laws, c. 255, 4/8/1986⁽¹⁾)

[1]

Editor's Note: This act amended Subsection (d) in its entirety.

(2)

a.

No later than 30 days following the public hearing, the Town Council shall pass a Resolution, by a majority vote of the Commissioners of Dewey Beach at a properly-noticed Town Council meeting, ordering a Special Election for Annexation. The passage of this Resolution shall, ipso facto, be considered the determination of the Town Council to proceed with the matter of the proposed annexation.

b.

The Special Election for Annexation must be held not less than 30 days or more than 60 days after the Town Council meeting under Subsection (d)(2)a. of this section.

(3)

The notice of the time and place of holding the said Special Election for Annexation shall be printed within the 30 days immediately preceding the date of the Special Election in 2 issues of a newspaper having a general circulation in The Town and in the territory proposed to be annexed as well as posted in the Town of Dewey Beach at Town Hall and the Life Saving Station, and on the Town's website for no less than the 30 days before the date of the Special Election for Annexation. In addition, a reasonable effort will be made to send a personal letter to all individuals qualified to vote in the Town of Dewey Beach under Section 10(b) of this Charter and all individuals meeting the equivalent qualifications in the territory proposed to be annexed at least 30 days before the date set for the Special Election.

(4)

a.

At the Special Election for Annexation, individuals qualified to vote in the Town of Dewey Beach under Section 10(b) of this Charter and individuals meeting the equivalent qualifications in the territory proposed to be annexed are entitled to cast 1 vote.

b.

Property owners or leaseholders, as defined in this Charter, whose property or whose improvement located on leased land is exempt from taxation or is not assessed are not entitled to vote in the Special Election for Annexation.

c.

The books and records of the Town of Dewey Beach in the case of Town property owners, or leaseholders as defined in this Charter or residents and the books and records of Sussex County in the case of property owners, leaseholders as defined in this Charter, or residents of the territory proposed to be annexed shall be conclusive evidence of the right of such persons, firms, or corporations to vote at the Special Election for Annexation.

(5)

In the event that an individual holds a power of attorney duly executed and acknowledged and specifically authorizing the individual to vote at the said Special Election for Annexation on behalf of a qualified voter, a duly authenticated copy of the Power of Attorney shall be filed in the office of the Town Clerk of The Town of Dewey Beach. The filed Power of Attorney constitutes conclusive evidence of the right of the individual to vote in the Special Election for Annexation.

(6)

Voting machines shall be used in any annexation election and the form of the ballot to be inserted in the machine shall be as follows:

_____ For the proposed annexation
_____ Against the proposed annexation

(CHECK THE ONE BLOCK FOR WHICH YOU CAST YOUR VOTE)

(7)

a.

The Mayor of Dewey Beach shall appoint 3 persons to act as Election Officials, at least 1 of whom must reside and own property in the Town, and at least 1 of whom must reside and own property in the territory proposed to be annexed. The Mayor of Dewey Beach shall designate 1 of the persons appointed the Presiding Officer.

b.

Voting shall be conducted in a designated municipal location in Dewey Beach and the Election Officials shall have available, clearly marked, 2 ballot boxes. All ballots cast by individuals authorized to vote as residents, property owners, or leaseholders in the territory proposed to be annexed shall be deposited in 1 ballot box, and all ballots cast by individuals authorized to vote as residents, property owners, or leaseholders of the Town shall be deposited in the other ballot box. The polling places shall be open from 1:00 p.m., prevailing time, until 6:00 p.m., prevailing time, on the date set for the Special Election.

(8)

a.

Immediately upon the closing of the polling places, the Election Officials shall do all of the following:

1.

Count the ballots for and against the proposed annexation.

2.

Announce the result of the Special Election for Annexation.

3.

Make a certificate under their hands of the number of votes cast for and against the proposed annexation, and the number of void votes.

4.

Deliver the certificate to the Town Council of Dewey Beach.

b.

The certificate under Subsection (d)(8)a. of this section shall be filed with the papers of the Town Council of Dewey Beach.

(9)

In order for the territory proposed to be annexed to be considered annexed, both a majority of the votes cast by Dewey Beach voters and a majority of the votes cast by voters in the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Referendum results in an unfavorable vote for annexation, a subsequent election may be held at any time. If a favorable vote for annexation shall have been cast, The Town Council of Dewey Beach shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds for Sussex County in Georgetown, Delaware, within 90 days following the favorable referendum. The territory considered for annexation shall be considered to be a part of The Town of Dewey Beach from the time of recordation. If the Town Council of Dewey Beach fails to record the description and plot within 90 days, the annexation is deemed to be effective at the expiration of the 90-day period from the date of favorable election.

Section 3. Structure of Government.

(83 Del. Laws, c. 156, 9-15-2021)

(a)

The government of the Town of Dewey Beach shall be organized under a Council-Manager form. The Town Council is responsible for functions such as establishing policy, passing local ordinances, voting appropriations, and developing an overall vision. The Town Council shall appoint a professional manager, the Town Manager, to oversee administrative operations, implement its policies, and advise it. The Town Manager shall be politically impartial and provide professional management to the Town Council.

(b)

The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, is vested in the Town Council. The Town Council shall consist of 5 Town Commissioners, elected under Section 7 of this Charter. One of the Town Commissioners shall be the "Mayor of the Town of Dewey Beach" with duties established under Section 14 of this Charter. The Mayor of the Town of Dewey Beach is the presiding officer of the Town Council.

Section 4. General Powers.

(83 Del. Laws, c. 156, 9-15-2021)

(a)

(1)

Not by way of limitation of the power vested in the Commissioners of Dewey Beach to exercise all powers delegated by this Charter to the municipal corporation or to the Town Council, except as expressly limited by this Charter or other law, the Town Council is vested by this Charter with all of the following powers, to be exercised by the Town Council in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants, and affairs:

a.

Have and use a corporate seal which may be altered, changed, or renewed.

b.

Sue and be sued.

c.

Plead and be impleaded in all Courts of law and equity in the State of Delaware, and elsewhere.

d.

Hold and acquire real property and personal property obtained by purchase, gift, devise, or lease within or without its boundaries for any municipal purposes, in fee simple or for lesser estate or interest.

e.

Sell, lease, hold, manage, and control property as its interest may require.

f.

Do other things which a body politic and municipal corporation may lawfully do to carry out and effectuate the objects and purposes of this Charter, subject, however, to other sections of this Charter.

(2)

The "Commissioners of Dewey Beach" are also referred to in this Charter as the "Town Council," "Council," "Corporation," and "Town."

(3)

Except as provided in this Charter relative to the power to issue bonds, the Town shall have all other powers and functions requisite to or appropriate for all of the following, which are the goals of Town governance (Town Goals):

a.

The governance of the Town.

b.

The maintenance of its peace and order.

c.

The provision of its sanitation.

d.

The maintenance of its infrastructure.

e.

The protection of its beauty and surrounding natural environment.

f.

The provision for the health, safety, convenience, comfort, and well-being of its population and visitors.

g.

The protection and preservation of property, public and private.

h.

The preservation of the character of the Town.

i.

The assurance of financial sustainability.

j.

The provision of resilience in the face of global climate change.

(4)

All actions, suits or proceedings shall be brought in the name of the "Town of Dewey Beach."

(b)

The enumeration of particular powers by this Charter are not exclusive and do not restrict in any manner the general powers conferred herein, but in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise thereof, it is intended that the Town of Dewey Beach shall have, and may exercise all powers which, under the Constitution of the State of Delaware, would be competent for this Charter to specifically enumerate. All powers of the Town of Dewey Beach, whether expressed or implied, shall be exercised as prescribed by this Charter; or, if not prescribed in this Charter, by ordinance or resolution of the Town Council.

Section 5. Qualifications of the Mayor and Town Commissioners.

(76 Del. Laws, c. 273, 6/30/2008; 78 Del Laws, c. 346, 7/18/2012; 83 Del. Laws, c. 156, 9-15-2021)

(a)

A candidate for, and holder of, the Office of Town Commissioner must be a qualified Dewey Beach voter of at least 21 years of age.

(b)

At all times, **no less than 2 sitting Commissioners must qualify as Resident Town Commissioners.** A Resident Town Commissioner is a bona fide resident and domiciliary of the Town.

(c)

A Non-Resident Town Commissioners must satisfy 1 or more of the voter qualifications under Section 10(b) of this Charter.

(e)

The Town Commissioner with the title of "Mayor of the Town of Dewey Beach" must qualify for the Office of Town Commissioner as a Resident Town Commissioner.

(f)

(1)

If a Resident Town Commissioner no longer satisfies the residency requirement under Subsection (b) of this section at a time when there are only 2 sitting Resident Town Commissioners, that Resident Town Commissioner must be removed from the Office of Town Commissioner by a majority vote of the remaining Town Commissioners present at a Town Council Meeting.

(2)

If a Resident Town Commissioner no longer satisfies the residency requirement under Subsection (b) of this section at a time when there are at least 2 additional sitting Resident Town Commissioners and that Resident Town Commissioner satisfies 1 or more of the qualifications for a Non-Resident Town Commissioner that Resident Town Commissioner continues to qualify for the Office of Town Commissioner as a Non-Resident Town Commissioner.

(3)

If a Non-Resident Town Commissioner no longer satisfies any of the voter qualifications required under Subsection (c) of this section and has not established residency in the Town of Dewey Beach, that

Commented [BS1]: What happens in the event that an election contains only one resident candidate and only one resident candidate council spot; automatic appointment?

Commented [GP2R1]: Yes, without regard to how many votes the candidate receives in the election.

Commented [GP3R1]: Review and discuss for recommendation

Non-Resident Town Commissioner must be removed from the Office of Town Commissioner by a majority vote of the remaining Town Commissioners present at a Town Council Meeting.

(4)

If a Non-Resident Town Commissioner no longer satisfies any of the voter qualifications for non-residents as required under Subsection (c) of this section but has established bona fide residency within the Town, that Non-Resident Town Commissioner shall continue in the Office of Town Commissioner as a Resident Town Commissioner.

(g)

The Town Council is the final judge of the qualifications of candidates for, and holders of, the Office of Town Commissioner.

Section 6. Board of Elections.

(77 Del. Laws, c. 42, 6/16/2009; 83 Del. Laws, c. 156, 9-15-2021)

(a)

The Town Council shall appoint the Board of Elections members for a term of 1 year. The Board of Elections shall consist of 3 members. All members of the Board of Elections must meet the appointment qualifications under Chapter 75 of Title 15 of the Delaware Code.

(b)

Board of Elections appointees shall be confirmed by swearing or affirming, both orally and in writing, the oath specified under Chapter 75 of Title 15 of the Delaware Code. Board of Elections appointees shall be sworn or affirming by the Alderman of the Town of Dewey Beach or the Mayor of the Town of Dewey Beach.

(c)

Members of the Board of Elections shall, as empowered under Chapter 75 of Title 15 of the Delaware Code and the ordinances of the Town, perform prescribed duties with fidelity and without favor or electioneering to accomplish the proper conduct of municipal candidate elections within the Town of Dewey Beach.

(d)

Any member of the Board of Elections may be removed from office for cause by a majority vote of the Commissioners at a Town Council meeting.

(e)

Activities of the Board of Elections shall be consistent with the Delaware Freedom of Information Act, Chapter 100 of Title 29 of the Delaware Code.

Section 7. Elective and Appointive Offices.

(77 Del. Laws, c. 42, 6/16/2009; 83 Del. Laws, c. 156, 9-15-2021)

(a)

Each Town Commissioner shall be elected for a 2-year term that begins from the organizational meeting of the Dewey Beach Town Council immediately following the Town Commissioner's election and continues until the organizational meeting 2 years later. All other offices shall be appointive and the person or persons filling such appointive offices shall be appointed by the Town Council.

(b)

(1)

a.

In the case of a vacancy created in the office of Commissioner of Dewey Beach having the title of Mayor of the Town of Dewey Beach, either by death, resignation, loss of eligibility for the Office of Mayor, or other disqualifying event, the remaining Town Commissioners shall fill such vacancy for the remainder of the Vacating Mayor's 1-year term by electing a sitting Resident Town Commissioner to the Office of Mayor by a majority vote at a properly noticed Town Council meeting.

b.

The Town Council shall fill the vacant Town Commissioner office under Subsection (b)(2) of this section.

(2)

In the case of a vacancy in any office of Town Commissioner, the remaining Commissioners shall fill the vacancy, for the remainder of the vacating Commissioner's term by electing a qualified candidate to the vacant Town Commissioner office by a majority vote at a properly noticed Town Council meeting, however, this election must result in 2 or more Commissioners qualifying as Resident Town Commissioners. All members of the Town Council are eligible to nominate qualified candidates for a vacancy under this Subsection (b)(2).

(c)

If any elective or appointive officer is found guilty of a felony anywhere in the United States, the officer is forthwith disqualified to act as such officer and shall be removed from office by a majority vote of the Commissioners present at a properly noticed Town Council meeting. The Town Council shall subsequently fill the vacant office as in the case of other vacancies.

Section 8. Organization.

(77 Del. Laws, c. 42, 6/16/2009; 83 Del. Laws, c. 156, 9-15-2021)

(a)

The Town Council shall hold an annual organizational meeting no sooner than 7 days following the annual municipal election, for the purpose of organization at the usual place for holding meetings of the Town Council.

(b)

During the organizational meeting, the newly elected Town Commissioners shall assume the duties of the Office of Town Commissioner, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, the Alderman of the Town of Dewey Beach, or by a holding-over member of the Town Council. After assuming their duties as Commissioners, the Town Council shall do all of the following:

(1)

Elect a Commissioner to serve as the presiding officer of the Town Council for a 1-year term that runs through the subsequent organizational meeting. If the Town Council is unable to elect a presiding officer, the presiding officer is chosen by lot. The presiding officer holds the Office of Mayor of Dewey Beach ("Mayor").

(2)

Select a Commissioner to serve as the Secretary of the Town Council ("Secretary") until the subsequent organizational meeting. The Secretary shall be responsible for all of the following:

a.

Taking and keeping minutes of executive sessions of the Town Council.

b.

Coordinating with the Town Clerk on the development and keeping of minutes of all Town Council meetings.

c.
Presiding over Town Council meetings when the Mayor is unavailable.

d.
For all other responsibilities of the Mayor when the Mayor is unavailable.

(3)
Elect or appoint other officers and employees as may be determined to be necessary to facilitate Town Council operations.

(c)
The Town Council shall, by ordinance, fix the total amounts of the salaries or compensation paid to employees and officers on a department by department basis as part of the annual budget approval process. **The salaries or compensation of individual employees or officers must be consistent with the staffing plan approved as part of the annual budget process and are set by the appropriate department head, with the approval of the Town Manager.** An employee or officer of the Town must not have, take, or receive from the Town or otherwise, any compensation, in any form, in addition to the salary or compensation fixed by the Town Council under this subsection.

(d)
The Town Manager shall keep a full and complete record of all officers appointed, and employees and agents hired by the Town, that contains all of the following information for each officer, employee, or agent:

(1)
Name.

(2)
Date of employment.

(3)
Amount of salary or compensation received.

(4)
Date of the termination of their services.

Section 9. Method of Filing for the Office of Town Commissioner.

(83 Del. Laws, c. 156, 9-15-2021)

(a)
No person shall be voted upon as a candidate for the Office of Town Commissioner in any annual municipal election unless at least 30 days before the date set for the election, the person has filed with the Town Manager a letter or other certificate setting forth that the person will be a candidate for either Resident Town Commissioner or for Non-Resident Town Commissioner. The Town Manager must not permit the name of any candidate for the Office of Town Commissioner to be accepted and included on the election ballot unless the candidate meets the requirements under Section 5 of this Charter.

(b)

Commented [BS4]: Redundancy with Section 22 and should be moved and consolidated.

Commented [GP5R4]: Agree on moving and consolidating and drop requirement to fix salaries by ordinance.

Commented [GP6R4]: Review and discuss for recommendation

Commented [BS7]: Should the council or the town manager determine the salary plan or should council simply hold the town manager to a total budgeted number?

Commented [GP8R7]: I think hold the TM to a total budgeted number.

Commented [GP9R7]: Needs review and recommendation

The Town Manager shall promptly notify the members of the Town Council of the names and qualifications of qualified candidates who have filed for candidacy for the Office of Town Commissioner.

Section 10. Manner of Holding Elections, Voter Registration, and Voter Qualifications.

(74 Del. Laws, c. 370, 7/19/2004; 77 Del. Laws, c. 42, 6/16/2009; 77 Del. Laws c. 354, 7/12/2010; 78 Del Laws, c. 346, 7/18/2012; 83 Del. Laws, c. 156, 9-15-2021)

(a)

(1)

Annual municipal elections for openings to the Office of Town Commissioner, including Resident and Non-resident Town Commissioners shall be conducted as follows:

a.

Held on the third Saturday of the month of September, except that, in any year when the third Saturday in September conflicts with either day of Rosh Hashanah (Jewish New Year) or Yom Kippur (Jewish Day of Atonement), annual municipal elections shall be held on the fourth Saturday of the month of September.

b.

Held from 10:00 a.m. to 6:00 p.m. at 1 or more locations determined by the Commissioners.

c.

Notice must be provided as follows:

1.

Posting notices in 2 conspicuous places within the corporate limits of the Town of Dewey Beach.

2.

Publication in a newspaper of general circulation in the community 15 days or more before the date of the annual municipal election.

(2)

a.

In the event that there is no contest for any of the several offices up for election in any year, the Election Officials shall declare all candidates on file to be duly elected if the result is a 5 member Town Council with a minimum of 2 Resident Town Commissioners.

b.

If the election is being held for the sole purpose of electing officers and there is no contest for any of the several offices up for election in any year, the election is cancelled and polls do not open.

(3)

The Town Council may enact by ordinance voter registration procedures deemed reasonably necessary to provide for the orderly and efficient conduct of municipal elections, including provisions for casting of provisional ballots. An ordinance enacted under this Subsection (a)(3) cannot alter the qualifications of voters under this section or unduly impair the right to vote in an annual municipal election or special election. In each election, all of the following apply:

a.

A person is only eligible to vote if properly registered.

b.

A person may cast only 1 ballot.

(b)

Each person 18 years of age or older, is a qualified voter in an annual municipal election of Dewey Beach and all special elections in Dewey Beach if the person satisfies any of the following:

(1)

Is a bona fide resident and domiciliary of the Town.

(2)

Is an owner of real property within the Town.

(3)

Holds a valid lease with a term of 5 years or more on property within the Town. A leaseholder seeking qualification as a voter shall file a copy of a valid lease at the time of voter registration, and each time the lease is modified or renewed.

(4)

Is both the trustee and a settlor or creator of a valid trust to which real property located within the Town has been conveyed and that conveyance recorded in the Office of the Recorder of Deeds in and for Sussex County. A person registering to vote under this Subsection (b)(4) shall file the trust document identifying the trustee and the settlor or creator at the time of voter registration, and each time the trust documents are modified in a manner that affects the person's status as a trustee or settlor or creator, including cancellation of the trust.

(5)

Is the managing member of the LLC, LLP, or Corporation (only 2 votes per entity) to which real property located within the Town has been conveyed and that conveyance recorded in the Office of the Recorder of Deeds in and for Sussex County. A person registering to vote under this Subsection (b)(5) shall file the corporate document identifying the managing member at the time of voter registration, and each time the corporate documents are modified in a manner that affects the person's status as a member, including termination of the corporation.

(c)

(1)

Every municipal election, including an annual municipal election and all special elections shall be held under the supervision of the Election Officials, except for a special election for the annexation of territory under Section 2 of this Charter.

(2)

The Election Officials shall consist of 1 Inspector of the Election and such Officers of the Election as are appointed by the Dewey Beach Town Council. The Inspector and all other Election Officials must be registered voters of the Town of Dewey Beach and appointed by the Town Council at least 30 days before each annual municipal election.

(3)

If, at the opening of the polls, any of the Election Officials are not present, the persons registered to vote at the election and present at the opening of the polls shall, by viva voce, select a registered voter or voters to act as the Election Officials, filling the vacancies caused by the absence of the Election Officials.

(4)

Election Officials are Judges of the Election, and shall decide the legality of the votes offered. The Election Officials shall keep a true and accurate list of all voters voting at the election. The Board of Elections has the power to subpoena persons and officers of the Town, and to subpoena books, records, and papers relative to the determination of the validity of any vote or votes offered.

Commented [BS10]: To allow property owners who have placed their property in a LLC to be able to vote.

Commented [GP11R10]:

Should know how many properties are held in LLCs. Should there be a requirement for at least 50% ownership of LLC? Should LLC be limited to one vote? Ensure one person, one vote. If two votes, what is qualification for second vote? This was controversial 5 years ago in Rehoboth - negative public opinion and objections from Delaware Council on Open Government and ACLU.

Commented [GP12R10]: Needs review and recommendation

(d)

(1)

Upon the close of an election, the Election Officials shall compute the votes and announce the results publicly. Upon the close of the annual municipal election, the Elections Officials shall compute the votes for each candidate for the Offices of Town Commissioner of Dewey Beach and announce publicly, the number of votes received by each candidate.

(2)

The candidates with the highest number of votes shall be declared, by the Election Officials, to be duly elected, if the results provide that the Town Council will be comprised of 2 or more Resident Town Commissioners. If the results do not provide that the Town Council will be comprised of 2 or more Resident Town Commissioners, then 1 or 2, as necessary, of the Resident Town Commissioner candidates receiving the highest number of votes shall be declared duly elected. If vacant Town Commissioner Offices remain after the 2 Resident Town Commissioner offices are filled, the other candidates receiving the highest number of votes shall be declared duly elected.

(3)

Candidates declared duly elected under this subsection take office immediately following being sworn in at the organizational meeting and continue in office until their successors have been duly elected and sworn in, or until vacating or being removed from office.

(4)

If the number of candidates in an election is not sufficient to fill all open offices of Town Commissioner and would result in a Town Council that has less than 2 Resident Town Commissioners or less than 5 total Town Commissioners, then vacancies must be filled under Section 7 of this Charter.

(e)

In the event of a tie vote for any office, the Election Officials shall determine the the outcome of the election by lot.

Commented [BS13]: duplicative

Commented [GP14R13]: No change needed. State copy of charter does not have duplication.

(f)

The Election Officials, as soon as possible after the polls have closed and the results announced, shall deliver all election documents, envelopes, and absentee ballots to the Board of Elections. The Board of Elections shall secure the documents, envelopes, and absentee ballots until such time that they need to canvass the election.

(g)

The Election Officials shall enter in a book, to be provided for that purpose, a complete record of the election, containing the names of the persons elected. The Town Manager, on behalf of the Town Council shall maintain a book, containing all records and minutes of the election, which may be evidence in any court.

(h)

Ballots may be cast in person or by absentee ballot in all elections. Absentee voting shall be in compliance with the applicable provisions under Chapter **75** of Title 15 of the Delaware Code.

Section 11. Town Council Meetings.

(83 Del. Laws, c. 156, 9-15-2021)

(a)

The Town Council shall hold meetings at the call of the Mayor or a majority of Commissioners.

(b)

The Town Council has the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at a Town Council meeting called under Subsection (a) of this section. The Town Council must hold at least 1 meeting each month, except that there may be 1 month without a meeting each year if the majority of the Town Commissioners present at a prior Town Council meeting vote to not hold the meeting.

(c)

All meetings are subject to the provisions of the Freedom of Information Act, Chapter 100 of Title 29 of the Delaware Code.

Section 12. Quorum.

(83 Del. Laws, c. 156, 9-15-2021)

A majority of the Town Commissioners appointed or elected to the Town Council constitute a quorum.

Section 13. Rules of Procedures and Minutes of the Town Council.

(83 Del. Laws, c. 156, 9-15-2021)

(a)

The Town Council shall determine rules of procedure and order of business.

(b)

The Town Manager shall keep a record of Town Council rules and procedures and a record of Town Council meetings. All Town Council records under this subsection must be open to public inspection at Town Hall and on the Town website.

(c)

Every ordinance must be introduced in writing. No ordinance may be passed unless it has the affirmative vote of a majority of the Town Commissioners present at a Town Council meeting. A vote on any ordinance must be by voice vote, and the vote of each Town Commissioner on any ordinance must be entered on the record.

Section 14. Duties and Powers of the Mayor.

(72 Del. Laws, c. 425, 7/13/2000; 83 Del. Laws, c. 156, 9-15-2021)

(a)

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

(b)

(1)

The Mayor serves as the presiding officer of the Town Council. As presiding officer, it is the Mayor's duty to preside at all meetings of the Town Council.

(2)

The Mayor shall execute on behalf of the Town when authorized by a majority of the Commissioners all agreements, contracts, bonds, deeds, leases and other documents necessary to be executed.

(3)

The Mayor shall be a member, ex-officio, of all committees.

(4)

The Mayor shall perform all duties imposed upon the Office of the Mayor by this Charter. The Mayor shall assist the Town Council in its duty to see that the laws and ordinances of the Town are faithfully executed and ensure that all actions taken by the Town Council promote the Town's goals and adhere to the annual budget.

(5)

The Mayor has the power to administer oaths and affirmations.

(6)

The Mayor serves as the liaison between the Town Council and the Town Manager.

(7)

The Mayor serves as the official spokesperson for the Town Council on decisions and actions taken by the Town Council.

(8)

The Mayor has the power and authority to solemnize marriages within the boundaries of the Town of Dewey Beach.

(9)

If the Mayor is absent or incapacitated, the Secretary of Town Council serves in lieu of the Mayor until 1 of the following occurs:

a.

The Mayor is able to resume the duties of the Office of the Mayor.

b.

The remaining Commissioners determine by the majority vote of those present at a Town Council meeting that it is necessary to appoint a new Mayor.

c.

The Mayor has been absent or incapacitated for 60 days.

(c)

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

(d)

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

Section 15. Employment of the Town Manager.

(70 Del. Laws, c. 191, 7/10/1995; 78 Del Laws, c. 346, 7/18/2012; 83 Del. Laws, c. 156, 9-15-2021)

(a)

The Mayor of the Town of Dewey Beach may appoint a Town Manager after an affirmative vote of 4 or more Commissioners at a Town Council meeting. The Town Manager is responsible for all administrative affairs of the Town.

(b)

(1)

The Town Council shall impose qualifications for Town Manager deemed necessary, in addition to demonstrated knowledge of the operation and administration of municipal governments based on the candidate's academic background or work experience. Experience working with federal and state emergency management agencies may be considered as an advantage.

(2)

No person holding the office of Mayor or Town Commissioner is eligible to apply for or to be appointed Town Manager.

(c)

(1)

The Town Manager must be appointed for a fixed term and shall report as follows:

a.

To the Town Council on all substantive matters.

b.

To the Mayor on a day-to-day basis regarding ministerial and administrative matters.

(2)

The Town Council shall evaluate the Town Manager's performance at least 1 time each year and each annual evaluation report must be signed by each Town Commissioner and archived with the Town's personnel files.

(3)

a.

The Town Manager may be removed for just cause by an affirmative vote of 4 or more Town Commissioners at a Town Council meeting.

b.

At least 30 days before removal under Subsection (c)(3)a. of this section is effective, the Commission shall, by an affirmative vote of 4 or more Town Commissioners at a Town Council meeting, adopt a preliminary resolution stating the reasons for the Town Manager's removal. The Town Manager may reply in writing and may request a public hearing which must be held not earlier than 20 days nor later than 30 days after the filing of the request. After the public hearing, if requested, and after full consideration, the Town Commissioners, by an affirmative vote of 4 or more Town Commissioners at a Town Council meeting, may adopt a final resolution of removal.

(4)

At the end of the Town Manager's contractual term of employment, the Town Council may act to not renew or not extend the Town Manager's contract without cause by an affirmative vote of 3 or more Town Commissioners at a Town Council meeting.

(d)

In case of the absence or disability of the Town Manager, the Town Council may designate a qualified person, who is not the Mayor, to perform, on a temporary basis, the duties normally assigned to the Town Manager.

(e)

The Town Commissioners shall establish the Town Manager's compensation by a resolution of the Town Council.

Section 16. Responsibilities of the Town Manager.

(70 Del. Laws, c. 191, 7/10/1995; 78 Del Laws, c. 346, 7/18/2012; 83 Del. Laws, c. 156, 9-15-2021)

(a)

The Town Manager shall be responsible to the Town Council for the proper administration of the affairs of the Town placed in the Town Manager's charge and to that end, has the authority to make appointments and to hire employees for compensation that is appropriate for each position, level, or qualification and to promote and remove employees from employment, subject to any rules and regulations adopted by the Town Council, in addition to all of the following:

(1)

Prior to taking personnel action regarding an employee of a department or division with a department head other than the Town Manager, the Town Manager must take into consideration the recommendation of the employee's department head.

(2)

A department or division head shall be responsible for the expedient and efficient operation of the department or division, ensuring that the department or division adheres to its budget and that all Town policy and laws under the responsibility of the department or division are faithfully executed.

(3)

All employees may be removed by the Town Manager at any time for just cause.

(4)

The Town Manager shall seek input from the Town Council for personnel actions regarding heads of departments or divisions but otherwise shall be the ultimate judge of the competence or incompetence of any person recommended for hiring, promotion, or termination.

(5)

The Town Council shall determine the rights of an employee to appeal any personnel action, which must be specified in the Town Employee Manual.

(b)

It is the intention of this Charter that, in the performance of the duties and exercise of the powers of the Office of the Town Manager, the Town Manager 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 charge and to see that the policy and ordinances of the Town are faithfully executed. Except for purposes of investigations under Section 30 of this Charter, the Town Commissioners shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.

(c)

The Town Manager shall supervise the administration of the affairs of the Town under the charge of the Office of the Town Manager and is responsible for operating the Town within the constraints of the budget. The Town Manager shall make reports to the Town Council as required, including all of the following:

(1)

Make recommendations concerning the affairs of the Town as seem desirable for expedient and efficient operations and the achievement of Town policy and goals.

(2)

To keep the Town Council advised of the financial condition and future needs of the Town.

(3)

Prepare and submit an annual budget estimate.

(4)

Render a true, accurate and detailed account of all the monies collected or received by the Town, to the Town Council and the public, at the regular Town Council meetings.

(5)

As requested by the Town Commissioners, arrange for department heads to be present at Town Council meetings to provide an overview of departmental activities and a description of active departmental concerns and future needs.

(d)

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

(e)

The Town Manager, and other officers of the Town as may be designated by vote of the Town Council is entitled to a seat in the meetings of the Town Council but not a vote.

(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 shall have charge of and shall collect all taxes, assessments, rentals, franchise fees, license fees, or other charges due the Town. The Town Manager shall have charge of the administration of all provisions of this Charter and ordinances and resolutions of the Town Council 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.

Commented [BS15]: Do we need to added parking administration?

Commented [GP16R15]: Review and Recommend

(g)

The Town Manager shall keep a full and strict account of all monies received and all disbursements made by the Town and shall ensure that Town accounts, at all times, are open to inspection by the Town Council.

(h)

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

(i)

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

(j)

Upon the death, resignation, or removal from the Office of the Town Manager, the Mayor, with the approval of a majority vote of the Town Commissioners present at a Town Council meeting, shall appoint a suitable person, who is not the Mayor to perform the duties of Town Manager on an interim

basis for 90 days with the option of renewal of the appointment for 2 additional terms of 90 days or until a Town Manager is appointed, whichever period is shorter.

(k)

(1)

The Town Manager is responsible for ensuring that a staffing plan for all active employees, officers, and agents is maintained and updated annually as part of the annual budget process or as needed as position descriptions and requirements change.

(2)

The Town Manager shall ensure that annual performance reviews are conducted for all employees and that each performance review is signed by the responsible department or division head and filed in the Town's permanent personnel files. In the case of department heads, annual performance reviews shall be conducted by the Town Manager after having received relevant input from the Town Council in Executive Session.

(3)

The Town Council shall conduct the annual performance review of the Town Manager. All Town Commissioners must sign the Town Manager's annual performance review and the Mayor shall share the annual review with the Town Manager.

Section 17. Audit Committee; Auditors

(78 Del Laws, c. 346, 7/18/2012; 83 Del. Laws, c. 156, 9-15-2021)

(a)

The Audit Committee (Committee) shall be composed of not less than 3 individuals who are qualified under Section 10(b) of this Charter to vote in the Town of Dewey Beach and 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 to serve for a term of 1 year. Each member of the Committee must be financially competent and at least 1 member must 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)

The Independent Auditors shall 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 fiscal year. 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

Commented [BS17]: Do we need to require the audit committee the ability to let the audit firm out of its multi year commitment as was done by the town manager regarding Cohn Reznickl

Commented [GP18R17]: Why wouldn't provisions for termination by either party be a part of the contract with the auditor?

Commented [GP19R17]: Review and recommend

succeeding acceptance of the Independent Auditors' annual report, 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. The Independent Auditor's responsibility is to render an opinion on the Town's financial statements based on the Independent Auditors' audit examination.

Section 18. Town Solicitor.

(78 Del Laws, c. 346, 7/18/2012; 83 Del. Laws, c. 156, 9-15-2021)

The Commissioners may select and appoint a Town Solicitor who may be removed by a majority vote of the Town Commissioners present at a properly noticed Town Council meeting, either with or without due cause stated. The Town Solicitor must be a member in good standing of the Bar of the State of Delaware. The Town Solicitor shall give legal advice to the Town Council and any other officers of the Town and shall perform other legal services as may be required by the Town Council.

Section 19. Police Force; Chief of Police; Beach Patrol.

(70 Del. Laws, c. 191, 7/10/1995; 83 Del. Laws, c. 156, 9-15-2021)

(a).

The Town Council shall establish a Police Force and make rules and regulations necessary for the organization, governance, and control of the Police Force. The Police Force shall preserve peace and order, compel obedience within the Town limits to all rules, regulations, laws, and ordinances that are enforceable within the jurisdictional limits of the Town, and have all other duties as the Town Council prescribes.

(b).

The Town Council shall appoint a Chief of Police to head the Police Force. The Town Council shall select the Chief of Police from at least 3 candidates, recommended by the Town Manager, who meet the qualifications established by the Town Manager and approved by the Town Council, and who satisfy the requirements of the Delaware **Council on Police Training** under Regulation 800 of Title 1 of the Delaware Administrative Code. A candidate must receive 3 or more favorable votes from Commissioners on the Town Council to be appointed as the Chief of Police.

(1).

The Chief of Police must report directly to, and is subordinate to, the Town Manager.

(2).

a.

The Chief of Police must serve under an employment contract with a fixed term that does not exceed 3 years. The employment contract must not automatically renew, but subject to the Town Council's approval, the employment contract may be renewed by the Town Manager for an indefinite number of terms.

b.

The Chief of Police may not be dismissed, demoted, or otherwise removed from office during the term of the employment contract without a finding of just cause at a hearing held under Chapter **93** of Title 11 of the Delaware Code. Subject to the Town Council's approval, the Town Manager may elect to not renew a Chief of Police's contract without a finding of just cause at a hearing held under Chapter **93** of Title 11 of the Delaware Code.

(3).

The Chief of Police shall do all of the following:

Commented [BS20]: Do we need to stipulate the acceptance of a candidate that will be required to complete training

Commented [GP21R20]: who satisfy, or may reasonably be expected to complete, the requirements of the Delaware **Council on Police Training** under Regulation 800 of Title 1 of the Delaware Administrative Code. Any candidate that has not satisfied these requirements would be required to complete them as a condition of employment.

Commented [GP22R20]: Review and recommend

a.

See that the Police Force enforces all rules, regulations, laws, and ordinances that are enforceable within the jurisdictional limits of the Town.

b.

Be responsible for the 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.

c.

Be accountable to the Town Manager for operating the Police Force within a prescribed budget and establishing appropriate rules and regulations for efficient and effective departmental operations.

d.

Subject to the Town Manager's approval, have authority over all Police Force personnel matters, including removal of any Police Force employee under Chapter 92 of Title 11 of the Delaware Code.

(4)

The Police Chief, with the Town Manager's express approval, shall have the authority to issue temporary orders to authorize Town response and the expenditure of Town funds in response to a declared state or national emergency. Temporary orders under this Subsection (b)(4) remain in effect until such time as an emergency meeting of the Town Council can be convened or the emergency ends.

(c)

The Town Council is authorized to make such rules and regulations as may be necessary for the organization, governance, and control of a Beach Patrol. If organized, the Beach Patrol shall enforce regulatory measures ordained by the Town Council in respect to the cleanliness, uses and enjoyment of the Town Beaches and Beach front; and perform such other duties as the Commissioners may prescribe. In the performance of their duties, and subject to the appropriate training, members of the Beach Patrol may be vested with some or all the powers and authorities of a member of the Town Police Force as allowed by law, including by the Delaware Council on Police Training under Regulation 800 of Title 1 of the Delaware Administrative Code.

(d)

The Town Council shall appoint a Captain of the Beach Patrol to head the Beach Patrol. The Town Council shall select the Beach Patrol Captain from at least 3 candidates, recommended by the Town Manager, who meet the qualifications established by the Town Manager and approved by the Town Council. A candidate must receive 3 or more favorable votes from Commissioners on the Town Council to be appointed as the Beach Patrol Captain. The Beach Patrol Captain reports directly to, and is subordinate to, the Town Manager.

(1)

The Captain of the Beach Patrol may serve under an employment contract, but the term of the contract must not exceed 3 years. The employment contract must not automatically renew, but subject to the Town Council's approval, the employment contract may be renewed by the Town Manager for an indefinite number of terms. The Beach Patrol Captain must be disciplined or terminated in accordance with the terms of the employment contract, and in the absence of an employment contract, the Beach Patrol Captain is an at-will employee.

(2)

The Captain of the Beach Patrol shall see that the Beach Patrol enforces all rules, regulations, laws, and ordinances for which the Town Council has charged the Beach Patrol with enforcing. The Captain of the Beach Patrol shall be responsible for the proper administration of all the affairs of the Beach Patrol and any other duties prescribed by the Town Council. The Beach Patrol Captain is accountable

Commented [BS23]: For Town Manager, Chief of Police, and Beach patrol captain, the contract should not be more than 3 years and be approved by council; when was the last contract for beach patrol captain approved by Council?

Commented [GP24R23]: Agree. I do not recall approving a contract for the Beach Patrol Captain.

Commented [GP25R23]: Review and recommend

to the Town Manager for operating the Beach Patrol within a prescribed budget and establishing appropriate rules and regulations for efficient and effective departmental operations. Subject to the Town Manager's approval and any employment policies adopted by the Town Council, the Beach Patrol Captain has the authority over all Beach Patrol personnel matters.

Section 20. Alderman and Assistant Alderman.

(78 Del. Laws, c. 232, 5/1/2012; 83 Del. Laws, c. 156, 9-15-2021)

(a)

The Town Council is authorized to establish an Alderman's Court in a manner consistent with Constitution and laws of the State of Delaware.

(b)

Appointment. 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 or Assistant Alderman shall be sworn into office by the Mayor, and evidence of the appointment shall be recorded at the Recorder of Deeds in Sussex County.

(c)

Appointment and Reappointment Nomination. When a vacancy occurs, the Town Council shall, by majority vote, submit a list of 1 or more qualified candidates and the application and supporting documentation for each candidate to the Governor for consideration of appointment. Not less than 30 days prior to the expiration date of an Alderman's or Assistant Alderman's term, the Town Council shall, by majority vote, 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 1 or more qualified candidates along with their applications and supporting documentation to the Governor for consideration of appointment.

(d)

Term of Office. The Alderman and Assistant Alderman shall serve a 2-year term and shall remain in office until either reappointed or a successor is duly qualified.

(e)

Removal.

(1)

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.

(2)

If an 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, the Alderman or Assistant Alderman shall, within 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 5 days pay over to the Treasurer all Town moneys in their 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 \$25

nor more than \$100 for each day that the Alderman or Assistant Alderman fails to deliver the books and papers to the Mayor or to pay over all moneys to the Town.

(f)

Vacancy. 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 may elect 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 under § 9211(a) of Title 10 of the Delaware Code 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.

(g)

Qualifications. Any person appointed to serve as Alderman or Assistant Alderman shall be at least 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.

(h)

Oath of Office. 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.

(i)

Duties. 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.

(j)

Compensation. 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 Commissioners at a Town Council meeting. 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.

(k)

Alderman's Docket. 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.

(l)

Jurisdiction. 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.

(m)

Civil and Criminal Penalties; Costs. Neither the Alderman nor the Assistant Alderman may impose a penalty in **excess of \$1,000, exclusive of costs, or imprison an offender for more than 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.

Commented [BS26]: Do these figures need to be updated ?

Commented [GP27R26]: Conflict with penalties in the tree ordinance? Review and recommend.

(n)

Monthly Report to Town Council. The Alderman and Assistant Alderman shall prepare and submit a written monthly report to the Town Manager reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Town all fines and penalties at such times as the Town Manager directs. Neither the Town Manager, Town Council, or Mayor may establish or communicate an expected revenue budget for the Alderman Court.

(o)

Alderman Court Facilities and Staff. 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.

Section 21. Remedies, Powers and Methods for the Collection of Assessments and other Charges Due to the Town.

(70 Del. Laws, c. 191, 7/10/1995; 83 Del. Laws, c. 156, 9-15-2021)

(a)

A remedy by distress as now prescribed by law is hereby preserved to the Town Council 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 to the Town of Dewey Beach, the Town Manager may institute a suit, in the name of the Town of Dewey Beach, before any Court of the State of Delaware, in any county 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.

(c)

A Writ of Execution under Subsection (b) of this section constitutes a lien on any or all personal and real property of the responsible party within the county where the judgment was obtained, which by

virtue of such execution shall be levied upon within 30 days after the issuance of the Writ and the lien has priority over all other liens against the personal property created or suffered by the responsible party, except such liens thereon which may have been created in respect to County Taxes, although such other liens be of date prior to the time of the attachment of the said tax liens.

(d)

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

Section 22. Town Budget.

(76 Del. Laws, c. 273, 6/30/2008; 78 Del Laws, c. 346, 7/18/2012; 83 Del. Laws, c. 156, 9-15-2021)

(a)

The fiscal year for the Town of Dewey Beach shall begin April 1, and end March 31.

(b)

Annually, and not later than the last week in February, the Town Manager shall prepare a draft of the annual Town Budget and submit the draft Town Budget to the Town Council for approval. From this draft, the Town Council shall, not later than the second Saturday of March of each year, prepare and approve the Town Budget, by majority vote of the Town Commissioners present in a properly-noticed Town Council meeting, which contains the financial plan for conducting the affairs of the Town for the ensuing fiscal year.

(c)

The Budget shall contain the following information:

(1)

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

(2)

Estimates for the cost of maintenance of Town buildings and infrastructure.

(3)

An itemized statement of any other miscellaneous expenses estimated to individually exceed \$5,000.

(4)

Detailed estimates of the amounts of money to be received from taxes, assessments, and all other anticipated income of the Town from any source whatsoever.

(d)

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

Section 23. Enumeration of Powers.

(68 Del. Laws, c. 354, 7/10/1992; 76 Del. Laws, c. 273, 6/30/2008; 77 Del. Laws, c. 29, 5/18/2009; 78 Del Laws, c. 346, 7/18/2012; 82 Del. Laws, c. 276, 8/6/2020; 83 Del. Laws, c. 156, 9-15-2021)

(a)

Not by way of limitation upon the power vested in the Town Council to exercise all powers delegated by this Charter to the municipal corporation of the Town 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 is vested by this Charter with the following powers, which may be exercised by the Town Council in the interest of good government and the safety, health, and welfare of the Town, its inhabitants and affairs:

(1)

To provide for the governance of the Town; the maintenance of the Town's peace and order; the provision for the Town's sanitation and the maintenance of the Town's infrastructure; the protection of the Town's beauty and surrounding natural environment; the provision of the health, safety, convenience, comfort, and well-being of the Town's population and visitors; the protection and preservation of property, public and private, and the preservation of the character of the Town; the insurance of financial sustainability; and the provision of resilience in the face of global climate change.

(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)

Commented [BS28]: ?????

Commented [GP29R28]: Review and recommend revision

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 this 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 other security or securities as the Town Council shall select, for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the 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 \$3,000,000.

Commented [BS30]: Delete due to redundancy as it is covered in section 26.

Commented [GP31R30]: I think the power to borrow money should be included here in this enumeration of powers, but it could be shortened and reference made to Section 26 for specifics.

Commented [GP32R30]: Review and recommend

(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, agent, or employee of the Town and to make investigations of all municipal affairs, and, to subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and production of books, papers, or other evidence.

(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 deems 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 deems proper and necessary for the effective and faithful execution of the Town's goals of governance under Subsection (a)(1) of this section and for the preservation of the health, safety, and welfare of the Town and all therein.

a.

Registered voters of the Town of Dewey Beach, as defined under § 10(b) of this Charter, have the power to petition to require reconsideration by the Town Council of any adopted Ordinance and to approve, reject, or appeal an Ordinance at a referendum election under Subsection (a)(13)a through n of this section. However, the power of petition and referendum does 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 must be signed by the number of registered voters who equal 33 1/3% or more of the total number of voters who voted in the annual municipal election immediately preceding the execution of the Referendum Petition or 300 registered voters, whichever is greater. The Referendum Petition must contain the local address of each registered voter who signed it, authenticated under Subsection (a)(13)c of this section, and be presented to the Town Council at the next regular Town Council meeting following the date of adoption of the ordinance sought to be reconsidered or the Petition fails and may not be the subject of a referendum. If there are less than 28 days from the date of the adoption of the Ordinance sought to be reconsidered until the next regular Town Council meeting, the Petition for Referendum must be presented at the first regular meeting following the expiration of the 28 day period from the date the Ordinance was adopted or the Ordinance is not subject to a referendum. Each copy of a Referendum Petition must contain the full text of the ordinance sought to be reconsidered and the full text of the ordinance must be attached throughout the circulation of the Referendum Petition.

c.

1.

When the original Referendum Petition is filed, the circulator must attach a sworn, validly notarized affidavit executed by the circulator of the petition that states all of the following:

A.

The circulator personally circulated the petition.

B.

The number of signatures on the petition.

C.

That all signatures were affixed in the circulator's presence, except as permitted under Subsection (a)(13)c.2 of this section.

D.

The circulator believes the signatures to be the genuine signatures of the persons whose names they purport to be.

E.

That each person who signed is qualified to sign the petition.

F.

That each signer had an opportunity, before signing, to read the full text of the ordinance sought to be reconsidered.

2.

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 must be notarized.

d.

Within 20 days after the petition is filed with the Town Council under Subsection (a)(13)a through b of this section, 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 1 time if the circulator files a Notice of Intention to Amend with the Town Manager within 2 days after receiving a copy of the certificate and files a supplementary petition upon additional papers within 5 days after receiving the copy of the certificate. A supplementary petition shall comply with the requirements of this section concerning form, content, and the affidavit of the circulator. Within 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 a Notice of Intention to amend, or if an amended petition has been certified insufficient, the circulator may, within 2 days after receiving the copy of the certificate, file a request that the certificate be reviewed by the Town Council. The Town Council shall review the certificate at the next regular Town Council meeting following the filing of this request and approve or disapprove the request. The determination of the Town Council as to the sufficiency of the petition is final, unless a petition is filed under Subsection (a)(13)f of this section.

f.

Any person or persons, jointly or severally, aggrieved by the decision of the Town Council 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 30 days following the determination by the Town Council 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 to review such decision of the Town Council and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner or their attorney, which must not be less than 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 is not to be stayed or suspended from taking effect, and remains in effect unless and until a majority of the voters vote against the ordinance under Subsection (a)(13)n of this section or the Town Council fails to hold a referendum under Subsection (a)(15)i of this section.

h.

The Town Council 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 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 30 days and no later than 60 days from the date the Town Council determined not to repeal the referred ordinance. If the Annual Municipal Election is to be held within the period prescribed in this section, the 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 shall provide for a Special Election. If the Town Council 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 60 days from the date that the Town Council determined not to repeal the referred ordinance and such ordinance may not be passed in the same form for a period of 1 year from the effective date of repeal.

j.

The notice of the time and place of holding the said Special Election shall be printed in at least 2 issues of a newspaper having a general circulation in the Town of Dewey Beach within 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 Municipal Election and the Election Judge and Election Board, under 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. 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 certificate to the Town Manager, who shall immediately inform the Town Commissioners of the results. The certificate shall be filed with the Office of the Town Manager.

m.

The form of the ballot of the said Special Election shall be as follows:

() 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 for a period of 1 year from the date of the referendum.

o.

1.

The Town Council may, in its sole discretion, elect to adopt an ordinance, except for an ordinance specified not to be the subject of a referendum proceeding under Subsection (a)(13)a of this section, subject to a referendum. In such event, the Town Council 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 30 days after the results of the referendum are returned indicating that the ordinance is approved by referendum.

2.

Nothing contained herein shall operate so as to require the Town Council to exercise its 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 under this section. However, the decision of the Town Council 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 is no right to subject such ordinance to an additional referendum.

(14)

The Town Council has 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 has 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 has the authority to levy and collect an accommodations tax upon the renting or leasing of residential property located within the municipal boundaries of Dewey Beach, as follows:

a.

No accommodations tax for a residential rental may be collected upon any of the following:

1.

A valid rental agreement or valid lease agreement with a term of at least 1 year.

2.

The rental or lease of any room or rooms in a hotel, motel, or tourist home as defined under § 6101 of Title 30 of the Delaware Code.

b.

The accommodations tax on a residential rental is as set from time to time by the Town Council, but may not exceed 3% of the rent or lease amount unless approved by referendum.

(17)

To impose and collect a lodging tax of no more than 3% of the rent, in addition to the amount imposed by the State under Chapter 61 of Title 30 of the Delaware Code, for the occupancy of any room or rooms in a hotel, motel, or tourist home that is located within the boundaries of Dewey Beach, A lodging tax under this Subsection (a)(17) must be imposed as follows:

a.

May not be imposed before April 1, 2021.

b.

The initial rate may not exceed 1.5%.

c.

The rate may not be increased by more than 0.5% annually.

(b)

Notwithstanding any provision in this Charter to the contrary, the Town Council has 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.

Commented [BS33]: Redundant with Code Section 167 and should be removed and governed by Code vs Charter

Commented [GP34R33]:

Chapter 20 of Title 22 of the state code requires that any tax levied by a municipality must be expressly authorized in its charter or in Title 22. Neither the accommodations tax nor the lodging tax is authorized by Title 22, so these probably need to stay in the charter. Should verify with Fred.

Commented [GP35R33]: Commissioner discussion and review by Fred

Commented [BS36]: If we move 16 to the code, we should probably move

Commented [GP37R36]: Commissioner discussion and review by Fred

Section 24. Collection of Charges Due to the Town.

(83 Del. Laws, c. 156, 9-15-2021)

(a)

(1)

In the collection of any delinquent taxes or other amounts owed to the Town, the Town has all of the powers, remedies, and authority, including the monition method of the collection, under Title 9 of the Delaware Code, as individuals or departments authorized to collect delinquent taxes in Sussex County.

(2)

The delinquent amounts that may be collected under this section include all of the following:

a.

The cost of removal, abatement, or correction of any violation of local building, property maintenance, zoning, drainage, sewer, housing, or sanitation code done through public expenditure.

b.

Fines and civil penalties associated with local building, property, maintenance, zoning, subdivision, drainage, sewer, housing, sanitation, or animal code citations, tickets, or violations.

c.

Charges incurred by the Town for bringing property into compliance with the Town Code.

d.

Weed and grass cutting fees.

e.

Trash collection fees.

f.

Costs for laying out or repairing sidewalks.

g.

Building permit fees, business license fees, and any other assessments, licenses, fines, or penalties pertaining to a specific property.

(b)

Prior to commencing a collection action or proceedings, the Town shall mail written notice of the delinquent taxes or other amounts to the property owner. The notice must provide all of the following information:

(1)

Explain that the property owner may contest the delinquency by filing a written appeal with the Town Council within 30 days of the date of the notice.

(2)

Include notice that the Town Charter allows the Town to recover the costs of prosecution, including court costs, expert witness fees, reasonable attorney's fees, and other documented out-of-pocket expenses incurred in prosecution of the action.

(c)

If the Town recovers a judgment in a legal action in any Court of law or equity for a delinquent amount under this section, the Town shall seek to recover, and a court or administrative agency may award, the costs of the prosecution incurred in the prosecution of the action, including all court costs, sale costs, reasonable and necessary out-of-pocket expenses, and reasonable attorney's fees.

(d)

The collection procedures under this section are in addition to any other applicable remedies available under this Charter or the laws of this State.

(e)

This section may not be construed as a limitation upon the Town's ability to establish and fix fines or other penalties for violations of the laws, ordinances, or regulations of the Town of Dewey Beach.

Section 25. Removal of Obstructions, Nuisances, and Unsanitary Conditions.

(70 Del. Laws, c. 191, 7/10/1995; 83 Del. Laws, c. 156, 9-15-2021)

(a)

The Town Council may 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 by enacting ordinances or adopting resolutions to do all of the following:

(1)

Define what constitutes a nuisance or other condition under Subsection (a) of this section.

(2)

Provide responsible parties due process and rights of remedy.

(3)

Enforce this section, including fines and penalties.

(b)

The Town Council may require the property owner, legal entity, or individual causing or permitting a condition under Subsection (a) of this section to pay the cost of abating or removing the condition, including reasonable attorney's fees incurred in enforcement or litigation, filing fees, and court costs.

(c)

The remedies authorized under this section are in addition to any other applicable remedies available under this Charter.

Section 26. Borrowing Money and Issuing Bonds.

(69 Del. Laws, c. 45, 6/25/1993; 83 Del. Laws, c. 156, 9-15-2021)

(a)

The Town Council may borrow money, in an aggregate amount that does not exceed **\$3,000,000** unless approved by a referendum. To secure the payment of money borrowed under this section, the Town Council is 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 elects, for the payment of the principal thereof and the interest due thereon.

Commented [BS38]: Sufficient amount or can we establish a debt ratio application? What was the town's budget when the \$3 million was set as the debt ceiling?

Commented [GP39R38]: We voted in May 2019 to increase this amount from \$1.5 million to \$3 million. Initial proposal was \$3.5 million but was reduced in discussion.

Commented [GP40R38]: Review and recommend

(b)

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the Town Council under this section are exempt from all State, county, or municipal taxes.

(c)

The power or authority to borrow money under this section may be exercised by the Town Council to provide funds for, or to provide for the payment of, any of the following projects 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 more than 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.

(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 cases where the power or authority hereby vested in the 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 sought to be refunded and in all instances provided for in paragraph(c)(2) of this section it is not necessary for the Town Council to call a special election to approve the borrowing.

(e)

(Reserved)

Section 27. Contracts.

(83 Del. Laws, c. 156, 9-15-2021)

(a)

All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter must be awarded to the bidder submitting the lowest responsible bid. However, bidding is not required in any of the following circumstances:

(1)

The aggregate amount involved is \$5,000 or less. The aggregate amount under this Subsection (a)(1) adjusts each year by the change in the All Items Consumer Price Index for All Urban Consumers (CPI-U) from March of the previous year to March of the current year.

(2)

The purchase or contract is for personal or professional services.

(3)

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

(4)

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

(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, will not permit the delay incident to advertising,

(7)

(Reserved)

(8)

The purchase or contract is for property or services for which the Town Council determines that 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)

The existence of a public emergency, as determined by the Town Council.

Section 28. Limitation of Actions.

(83 Del. Laws, c. 156, 9-15-2021)

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 or any of the departments, officers, agents, or employees of the Town of Dewey Beach unless, within 90 days from the happening of the injury or suffering of damage, the person by or on behalf of whom such claim or demand is asserted notifies the Town Manager, 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 Town Commissioners of

Dewey Beach shall be against them only in their capacity as representatives of the Town Government and not as individuals.

Section 29. Compendium.

(83 Del. Laws, c. 156, 9-15-2021)

(a)

The Town Manager, at reasonable times, shall compile the ordinances or resolutions, codes, orders, rules, and regulations of the Town of Dewey Beach in a manner that may be readily examined and shall enroll all of the following in the same book or supplements:

(1)

Amendments to ordinances or resolutions, codes, rules, and regulations.

(2)

New ordinances or resolutions, codes, rules, and regulations.

(3)

Minutes of the Town Council, and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined.

(b)

As ordinances, resolutions, codes, orders, rules, and regulations are amended or enacted, the Town Manager shall provide copies to the Mayor and Town Commissioners.

(c)

The Town Manager shall have a reasonable number of copies of all new and amended ordinances, resolutions, codes, orders, rules, and regulations printed for the use of the officials of the Town and for public information.

Section 30. Investigations and Indemnification.

(83 Del. Laws, c. 156, 9-15-2021)

(a)

The Commissioners may establish policies and procedures governing investigation by the Town Council under Subsection (a)(12) of Section 23, including the potential suspension of officers and employees under investigation.

(b)

An investigation of a certified police officer must be conducted in accordance with the Law-Enforcement Officers' Bill of Rights, Chapter 92 of Title 11 of the Delaware Code.

(c)

The Town Council may provide for indemnification of elected and appointed officials from liability arising out of their actions, so long as the actions were conducted in good faith on behalf of the Town.

Section 31. Survival of Powers and Validating Section.

(83 Del. Laws, c. 156, 9-15-2021)

(a)

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

(b)

Except as provided expressly to the contrary, every and all sections or parts of sections of this Charter are effective immediately upon its approval.

(c)

The authority vested by Section 1 of this Charter in the Town of Dewey Beach and the individuals qualified to vote in the Town of Dewey Beach 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 Charter 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 Charter are hereby repealed to the extent of such inconsistency only.

(e)

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

(f)

This Charter 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; 82 Del. Laws, c. 276, 8/6/2020; 83 Del. Laws, c. 156, 9-15-2021)

Commented [BS41]: Does this allow for the sale of lottery tickets (i.e. MegaMillions) operated on a national level? If not could we amend to allow for it?

Commented [GP42R41]: Review and recommend