CHARTER OF THE CITY OF DELAWARE CITY

Article I Incorporation

Sec. 1-01. Incorporation.

The inhabitants of the City of Delaware City within the corporate limits as hereinafter defined in this Charter, Section 1-02, or as subsequently altered by annexation procedure as provided by law, are hereby declared to be a body politic incorporated in law and equity to be known as the "City of Delaware City" and shall continue to be a municipal corporation and body politic in perpetuity.

Sec. 1-02. Geographic Boundaries.

The geographic boundaries of the City of Delaware City are hereby established and declared to be as follows:

BEGINNING at the intersection of the low water line of the Southwestern side of the Delaware River and the low water line of the Southeastern side of the entrance to the Delaware City Branch Canal (formerly the Chesapeake and Delaware Canal); thence in a Southerly direction along the Southeastern mean low water line edge of the Delaware City Branch Canal to the intersection with the Northern mean low water line edge of the Chesapeake and Delaware Canal (presently owned by the United States of America); thence across the Delaware City Branch Canal along a tie line which would correspond to the Northern mean low water line edge of the Chesapeake and Delaware Canal to the point of intersection of the Northwestern mean low water line edge of the Delaware City Branch Canal and the Northern mean low water line edge of the Chesapeake and Delaware Canal; thence along the Northern mean low water line edge of the Chesapeake and Delaware Canal to a point in the line of the former main drain passing under the old canal (Circa 1826) extended; thence thereby about North 47 degrees West, 660 feet more or less to a point in the centerline of the former North Drain Ditch (as shown on the survey of U. S. Corps of Engineers, dated January 27, 1933, File 3111); thence thereby by the following three courses and distances, which bearings are based on true meridian; North 23 degrees 22 minutes 39 seconds East, 657.61 feet to a point; thence North 5 degrees 9 minutes 22 seconds West, 883.74 feet to a point; thence North 5 degrees 37 minutes 31 seconds West, 1688 feet more or less to a point in the Northwesterly side of Clinton Street (sometimes referred to as Cox Neck Road, County Route 411) at the intersection of said North Drain Ditch; thence along the Northwest side of said Clinton Street (Cox Neck Road, County Route 411) to a point 200 feet Southwest of the Southwest side of the intersection of

Clinton Street and Fifth Street; thence along a line at right angles to the Northwest side of Clinton Street (Cox Neck Road, County Route 411), a distance of 140 feet more or less to a point in the lands of the Mayor and Council of Delaware City; thence thereby South 42 degrees 10 minutes 30 seconds West, 238.98 feet to an iron pipe; thence North 47 degrees 45 minutes 00 seconds West, 156.73 feet to a monument; thence along the lands now or formerly of Delaware City Recreation, Inc., North 37 degrees 00 minutes 17 seconds East, 240 feet more or less to a point; thence along said aforementioned line at right angles to the Northwest side of Clinton Street (Cox Neck Road, County Route 411) to the Southeast side of the North Drain; thence with the centerline of the North Drain to a point which is the intersection of the centerline of the North Drain and the Southwest side of the Bridge on Delaware Route 9 (Fifth Street); thence along the Southwest side of Delaware Route 9 in a generally Northwesterly direction to a point which is due South of the intersection of the former Northwest boundary of the lands of William D. Clarke's Estate and Delaware Route 9; thence across Delaware Route 9 to said point of intersection; thence the following courses and distances (formerly the Northwest boundary of the lands of William D. Clarke's Estate):

1) North 10 degrees 06 minutes West; 104.05 feet;
2) North 56 degrees 14 minutes 10 seconds East; 436.83 feet;
3) North 56 degrees 24 minutes 30 seconds East; 1064.7 feet;
4) North 82 degrees 54 minutes 30 seconds East; 1056.0 feet;
5) North 57 degrees 08 minutes 40 seconds East; 329.6 feet;
6) North 55 degrees 23 minutes East; 706.11 feet;
7) South 62 degrees 38 minutes 25 seconds East; 256.39 feet; and
8) North 47 degrees 31 minutes East; approximately 1823.6 feet to

the low water line of the Delaware River; thence along the low water line of the Delaware River southeast to the point and place of Beginning. The boundaries of Delaware City also include any and all territory properly annexed into the City.

The jurisdiction of the City shall extend over all wharves, docks, piers, and other construction in the Delaware River adjoining the limits of Delaware City and for one hundred yards in the Delaware River beyond such wharves, docks, piers, and other construction.

The Mayor and Council of Delaware City, at any time hereafter, may cause a survey and plat to be made of the said City and said plat, when made and approved by the Mayor and Council, shall be recorded in the Office of the Recorder of Deeds in and for New Castle County, State of Delaware and the same, or the record thereof, or a duly certified copy of said record, shall be evidence in all Courts of law and equity in this State.

Sec. 1-03. Annexation.

The City of Delaware City shall have the power to annex, by ordinance, any territory contiguous to the City of Delaware City whenever, pursuant to a Special Election, the property owners within the territory to be annexed and the qualified voters of the City (as defined in this Charter) determine, by majority vote, that such annexation is appropriate and thereby approved.

Before any additional territory shall be annexed to the City, the Mayor and Council shall pass a resolution describing and defining accurately the territory proposed to be annexed, shall provide for zoning of the annexed territory and shall give at least twenty (20) days' notice for the Special Election by posting a copy of the Resolution and Notice of Special Election in at least five (5) public places in the City, one of which shall include the City Hall.

At the Special Election, every qualified voter shall have one (1) vote. Every property owner of the territory to be annexed, whether an individual, partnership, or corporation, shall also have one (1) vote. The books and records of the Board of Assessment and/or the Department of Elections of New Castle County shall be conclusive evidence of the right of any qualified voter or property owner of the territory to be annexed to vote at the Special Election.

Following the Special Election, the annexation shall not be effective unless and until the City Council approves the annexation by ordinance. Annexations shall satisfy all requirements of state law for annexation, including, but not limited to, Del. Code Ann. tit. 22, § 101 (as may be amended from time to time).

Article II Powers of the City

Sec. 2-01. Powers of the City.

The City of Delaware City shall have all the powers granted to municipal corporations and to cities by the Constitution and general laws of the State of Delaware, together with all the implied powers necessary to carry into execution all the powers granted. The City of Delaware City shall continue to enjoy all powers which have been granted to it by special acts of the General Assembly of the State of Delaware, except insofar as they may be repealed by the enactment of this Charter. The City of Delaware City, as a body politic and corporate, shall succeed to, own or possess all property whether real, personal, or mixed, and all the rights, privileges, franchises, powers and immunities now or heretofore belonging to, possessed by, or enjoyed by the Mayor and Council of Delaware City.

The City of Delaware City may have and use a corporate seal, may sue and be sued, may acquire property within or without its corporate limits by purchase, gift, devise, lease or condemnation, for the purpose of providing sites for public buildings, parks, sewer system, sewage treatment plant, water system, water plant, gas or electric system, or other municipal purposes, and may sell, lease, mortgage, hold, manage and control such property or utility as its interest may require; and except as prohibited by the Constitution of the State of Delaware, or restricted by this Charter, the City of Delaware City shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, it is intended that the City of Delaware City shall have, and may exercise all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate. All powers of the City, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in a manner provided by ordinances or resolutions of the Mayor and Council.

All laws, ordinances, resolutions, rules and regulations for municipal purposes now in force within the City, not inconsistent with, nor modified or repealed by the provision of the Charter, shall continue in force until repealed, rescinded or changed by proper authority. This Charter shall be construed liberally in favor of the City, and nothing in this Charter shall be construed as exempting any individual or agency from the operation of this Section.

Sec. 2-02. Intergovernmental Relations.

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

Article III Mayor and Council

Sec. 3-01. Form of Government.

The form of government established by this Charter shall be known as the Council-Manager form. The Mayor shall continue to be elected by the people and shall have the power of appointment and the power to approve or veto ordinances.

Sec. 3-02. The Council.

The Council shall consist of five (5) Councilpersons at large. The Mayor and Council may, however, provide by ordinance for Council districts from which each member of Council would be elected. Such districting could only be enacted upon a unanimous vote of Mayor and Council. It shall be the duty of each Councilperson to propose necessary and appropriate legislation and resolutions for Council consideration; serve on committees designated by the Mayor and Council; attend public hearings on proposed legislation; be available and responsive to constituents; and perform all other duties as provided in this Charter and by law. At each Mayor and Council meeting, each member of Council may report their activities on behalf of the City.

Sec. 3-03. The Mayor.

It shall be the duty of the Mayor to preside at all meetings of Council and to see that the laws, ordinances, rules and regulations of the City are faithfully executed. The Mayor shall have custody of the seal of the Corporation and shall have the right of affixing the seal. The Mayor shall approve or veto all ordinances, acts or resolutions of the Council, in accordance with the procedures set forth in this Charter or by ordinance.

The Mayor may report to Council on a monthly basis regarding activities of the Mayor undertaken on behalf of the City in an official capacity, including, but not limited to, marketing of the City, ceremonial appearances, and other public acts or actions on behalf of the City. In the case of a tie vote of Council, the Mayor shall have the authority to cast the deciding vote of Council on resolutions, motions and/or ordinances.

The Mayor shall also have the power to administer oaths and affirmations. The Mayor shall appoint all committees, subject to confirmation by Council and shall be recognized as the head of the City Government. The Mayor shall appoint, subject to confirmation by a majority of the members of Council, a City Manager to oversee and manage the administrative affairs of the City.

Sec. 3-04. The Vice-Mayor.

At the first regularly scheduled meeting following an election, the Mayor and Council shall elect, by a majority vote, among its members a Vice-Mayor who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall become Mayor for remainder of the unexpired term. However, the Vice-Mayor may vote on all resolutions, motions and ordinances when temporarily acting as Mayor.

Sec. 3-05. Qualifications for Mayor and Councilpersons.

Any qualified voter (as that term is defined in this Charter) of the City of Delaware City who is at least eighteen (18) years of age, who is a United States citizen, who has not been convicted of a felony as that crime is designated by the State of Delaware, and who is a resident of the City for at least one (1) year next preceding his/her election at the time his/her nominating petition is filed, shall be eligible to hold the office of Mayor or Councilperson. A person seeking to hold the office of Mayor or Councilperson shall establish one (1) year residency at the time his/her nominating petition is filed by furnishing identification and proof of residency by the means established by the General Assembly for voting, currently codified in Title 15, Section 7554 (d) of the Delaware Code, and as amended from time to time.

Sec. 3-06. Election and Terms of Office.

The general municipal election shall be held on the first Tuesday in April each and every year from 12 o'clock noon until 8 o'clock in the evening, local time. The Mayor and Council of said City shall continue to hold office during the respective terms for which they were elected or until their successors have been duly chosen and qualified. On the first Tuesday in April of every year which has the last digit as an odd, the Mayor and two (2) members of Council shall be elected to hold office for the term of two (2) years or until their successors have been duly chosen and qualified. On the first Tuesday in April of every year which has the last digit as an even number, the remaining three (3) members of Council shall be elected to hold office for the term of two (2) years or until their successors have been duly chosen and qualified.

The term of the Mayor and the Councilmembers shall begin on the date they take the oath of office. Within ten (10) days after any election, a special meeting shall be called for the purpose of swearing in the newly elected Mayor or Councilpersons. The oath shall be administered by the

Mayor, and the Councilperson with the most seniority shall administer the oath of office for any newly elected Mayor.

Sec. 3-07. General Powers and Duties.

All powers of the City shall be vested in the Mayor and Council, except as otherwise provided by law or this Charter, and the Mayor and Council shall provide for the exercise thereof and for performance of all duties and obligations imposed on the City by law.

Sec. 3-08. Council Prohibitions.

A. Holding Other Office. Except where authorized by law, no Mayor or Councilperson shall hold any other City office or City employment during the term for which elected to Council, and no Mayor or Councilperson shall hold any compensated appointive City office or employment until two (2) years after the expiration of the term for which elected to Council.

B. Appointments and Removals. Neither the Mayor nor the Council, nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, but the Mayor and Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

C. Interference with Administration. Except for the purpose of inquiries and investigations, the Mayor and Councilpersons shall deal with city officers and employees (other than the Solicitor) who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor nor the Council, nor its members shall give orders to any such officer or employee, either publicly or privately, nor shall the Mayor nor any Councilperson usurp any power given to the City Manager in this Charter.

Sec. 3-09. Vacancies and Forfeiture of Office.

A. Vacancies. The office of Mayor or Councilperson shall become vacant upon death, removal from the City, resignation, removal from office in any manner authorized by law, or forfeiture of office.

B. Forfeiture of Office. The Mayor or Councilperson shall forfeit office if: (1) he/she lacks, at any time during his/her term of office, any qualification for the office prescribed by this Charter or by law; (2) violates any express prohibition of this Charter; (3) is convicted of a felony as that term is defined by the State of Delaware; (4) failure to attend three (3) successive regular monthly meetings at any time or failure to attend four (4) regular monthly meeting in any

twelve-month period, without a legitimate excuse for absence at each meeting, as determined by a vote of a majority of all members of the Mayor and Council in attendance at each such meeting of the Mayor and Council, or (5) is deemed to have forfeited his or her office under the provisions of Section 3-10 of this Charter.

C. Filling of Vacancies. In case of vacancy for any cause in the Office of Mayor, the Vice-Mayor, who is appointed by the majority vote of the Council, shall fill such vacancy. In the case of a vacancy for any cause in the office of Councilperson, the Council, upon a majority vote shall make a temporary appointment within thirty (30) days to fill such vacancy. Such appointment shall continue until the next general municipal election. Thereafter, such office shall be filled by election and the person so elected shall serve for the remainder of the term of the Councilperson whose office became vacant.

Sec. 3-10. Judge of Qualifications of Members.

The Mayor and Council shall be the judge of the qualifications of its members and of the grounds for forfeiture of the office of Mayor or Councilperson, and for such purposes, shall have power to subpoena witnesses, take testimony, and require the production of records. A member charged with conduct constituting grounds for forfeiture of his office (which may include any violation of ethical standards established by the Delaware Code, by this Charter, or by Ordinance) shall be entitled to a public hearing before the Mayor and Council on demand; and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least ten (10) days in advance of the hearing. Four (4) votes of the Council are required to remove the Mayor or any sitting Councilperson from office.

Sec. 3-11. Mayor and Council Compensation and Expenses.

The Mayor and Council shall determine the annual salary of the Mayor and Councilpersons by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of members of the Mayor and Council elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months. Members of the Mayor and Council shall receive reimbursement for actual and necessary expenses as supported by receipts incurred in traveling when on official business. The salary of the Mayor may exceed that of Councilpersons.

Sec. 3-12. Meetings of Council.

The Mayor and Council shall meet at least once per month on a schedule established by the majority vote of Council at or before the last meeting of any calendar year. Additional

meetings may be held on a regular, adjourned or special basis, provided notice is given in accordance with the Law of the State of Delaware and the rules of the Mayor and Council. Special meetings may be called by the Mayor, by the City Manager or by written request of any two (2) members of the Council and, whenever practicable, upon no less than eight (8) hours' notice to each member. All meetings shall be open to attendance by the public, provided however, the Council may recess for the purpose of discussing, in an Executive Session limited to its own membership, any matter appropriate under the law of the State of Delaware provided that the general subject matter for consideration is expressed in the motion calling for such session.

The Mayor and Council shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any adjourned or special meeting, called as aforesaid as the Mayor and Council has at a regular meeting.

Sec. 3-13. Rules of Procedure.

The Council shall determine its own rules of procedure and order of business and shall provide for keeping a minute book of its proceedings, which shall be a public record and open to public inspection. Voting, except on procedural motions, may be by roll call but in any event the ayes and nays shall be recorded in the minutes. In any event, each person who desires to speak at any Regular, Special or Adjourned Meeting of Council, shall be allowed to speak by submitting his/her name and a brief description of the subject matter to the City Secretary prior to the start of the meeting. Mayor and Council meetings may be conducted according to the most recent edition of Robert's Rules of Order.

Sec. 3-14. Quorum and Majority Requirement.

A majority of the members of the Council shall constitute a quorum to do business. No ordinance shall be valid unless it shall have the affirmative vote of a majority of all the members of the Council, except in the case of a tied vote of Council in which the Mayor shall cast the deciding vote. Resolutions, orders and motions shall be valid upon the affirmative vote of a majority of the members of Council present, except in the case of a tied vote of Council in which the Mayor shall cast the deciding vote. No member shall be excused from voting on ordinances, resolutions, orders, or motions except where the Mayor or a member of Council has a disqualifying interest pursuant to State law, Section 12-01 of this Charter, or pursuant to the Delaware City Code, in which event, said member shall disqualify himself/herself from voting.

Article IV Assessment of Property; Taxes

Sec. 4-01. Property Assessment Procedure.

A. Generally. There annually shall be made a true, just and impartial valuation and assessment of all real estate within the City except such real estate as is exempt from municipal assessment and taxation by virtue of any State law, and also of such personal property as is subject to County assessment and taxation; provided, however, that in no event shall household furnishings, bank accounts, stocks, bonds or automobiles be assessed or taxed. A capitation tax may also be imposed where it shall be determined by the Mayor and Council to be appropriate.

B. Use of County Assessments. It shall be lawful for the City to enter into an agreement with the Board of Assessment for New Castle County to inspect and copy, or to obtain copies, of the assessments made for County purposes. Annually, the Mayor and Council shall make a judgment regarding whether the City will utilize such County assessments and whether said County assessments are a true, just and impartial evaluation. The Mayor and Council then shall order the adoption of such County assessment for municipal purposes or the adoption of assessments as determined by the City assessment authority; provided, however, that adoption of the County assessment for municipal purposes shall not preclude the City from modifying the County assessment list to take into account new construction or changes in ownership or use not reflected in the County assessment list, or clear cases of inequitable assessment. The determination to use the County assessments shall be made by ordinance before February lst of any year and shall continue in effect from year to year until revoked by ordinance. Notice of a determination to use the County assessments shall be given to the Assessor or Board of Assessment prior to March lst in the year that the determination is made and shall be published at least once a week for two (2) weeks prior to March lst of each year in at least two (2) newspapers in the municipality, or to the extent no such newspaper exists, then in a newspaper of general circulation in New Castle County.

C. Approval and Posting of Assessment Roll. Each year, there shall be prepared and submitted to the Mayor and Council, at least sixty (60) days before the beginning of the tax year, two or more copies of the assessment roll, which shall show the location of each parcel of taxable real and personal property by street and number or other suitable description. When the Mayor and Council approve the roll as prepared, or as modified by the Mayor and Council, then a full and complete transcript thereof shall be posted in a place in the City designated by the Mayor and Council. Such posting shall take place at least forty-five (45) days before the beginning of the tax year and shall remain posted up to, but not including, the appeal day as

herein set out. Notice of the time and place where the assessment list may be viewed shall be given by posting such announcement in at least five (5) public places throughout the City, one of which shall include the City Hall.

D. Assessment Board of Appeals. Each year, at least thirty (30) days before the beginning of the tax year, the Mayor and Council shall hold a Board of Appeals, which Board shall continue open from 7 p.m. to 9 p.m., during which time the Mayor and Council acting as such Board shall hear and determine appeals from assessments and shall make such corrections and additions as may be deemed necessary and proper.

The decision of a majority of the Mayor and Council sitting on appeals shall constitute the final decision of the Assessment Board of Appeals. The Board shall notify the appellant in writing, by certified mail, of its decision within five (5) days of its decision. The appellant, if he or she feels aggrieved by the decision may, within thirty (30) days from the date of mailing of the written decision, appeal therefrom to the Superior Court in and for New Castle County. The decision of the Board shall be prima facie correct and the burden of proof shall be on the appellant to show that the Board acted contrary to law, fraudulently, arbitrarily, or capriciously. The appellant shall be heard on the record and proceedings of the Board shall be certified to the Court by the Board within fifteen (15) days after service on the Board of a notice of appeal. The Court may permit the appellant or the Board to present any new or different evidence pertinent to the matter. The Court may affirm, reverse or modify the Board and the decision of the Court shall be final.

No Mayor or Councilperson shall sit on his/her own appeal, but the same shall be heard and determined by the other members of Council. After the said valuation and assessment shall be examined and adjusted by the Council, all property taxes shall be levied on real and personal property thus assessed in just and equal proportions.

E. Supplemental Assessments

(1) In addition to the annual assessment provided for in this Section IV of this Charter, the Mayor and Council may, at its option, request that the Assessor prepare a quarterly supplemental assessment list for any of the following purposes:

(a) Adding property which was not included on the last annual assessment;

(b) Increasing the assessed value of property which was included in the last assessment;

(c) Correcting errors on the prior annual assessment; or

(d) Revising or modifying any exemption from taxation applicable to property within the City.

(2) The supplemental assessment list shall be prepared quarterly by the Assessor and the first such supplemental assessment shall be certified to the Mayor and Council on July 1, the second on October 1, the third on January 1, and the fourth on April 1 of each year.

(3) On the date of certification of the supplemental assessment list by the Mayor and Council, according to the procedures set forth in this Section IV of the Charter, each property owner shall be liable for the payment of real estate taxes equal to the assessed value of the property multiplied by the tax rate for the then current fiscal year applicable to the property reduced by: twenty-five percent (25%) when the property is listed on the second supplemental assessment list, fifty percent (50%) when the property is listed on the third supplemental assessment list, and seventy-five percent (75%) when the property is listed on the fourth supplemental assessment list.

(4) Whenever the Mayor and Council place a property on a supplemental assessment list, notice thereof shall be made by regular mail addressed to the owner of the property affected thereby at the address shown on the assessment list, or if the address of such owner does not appear on the assessment list, then to the person occupying the property, or if there is no apparent occupant, such notice shall be posted on the property. Such notice shall be given within ten (10) days of the date on which the supplemental list on which the property appears is certified by the Mayor and Council. The certification by the Mayor and Council that the notice required by this Subsection was mailed or posted, as the case may be, shall be conclusive evidence that notice to the property owner was received.

(5) The Mayor and Council shall publish a notice of the place or places where the supplemental assessment list may be inspected together with a notice of the time and place in the Town when the Mayor and Council, not earlier than ten (10) days from the date of the notice, shall sit to hear appeals. The decision of a majority of the Mayor and Council sitting as the Assessment Board of Appeals, shall be final and conclusive in respect to all supplemental assessment appeals. All other procedural rules of the Assessment Board of Appeals not in conflict with this Subsection shall apply to supplemental assessment appeals.

(6) All taxes imposed by the supplemental assessment list and paid more than thirty (30) days following the date that notice is mailed by the Mayor and Council to the property owner or posted as provided for in this Section shall be delinquent.

(7) In the collection of all delinquent taxes imposed by the supplemental assessment list, there shall be added a penalty of five percent (5%) of the unpaid taxes and an amount equal to one percent (1%) per month for each month or fraction thereof that such taxes remain unpaid following the expiration of thirty (30) days from the date of Mailing or posting, as the case may be, of the notice required under this Section.

(8) Notwithstanding any provision to the contrary, the Mayor and Council shall have the authority to establish a minimum tax not to exceed two percent (2%) to be levied upon each individual parcel of real property taxable under this chapter, including, but not limited to individual Manufactured Homes, Mobile Homes, or Mobile Dwellings.

Sec. 4-02. Levy of Taxes.

The Mayor and Council shall after having ascertained the revenue necessary to balance the budget and having apportioned said sum on the assessment and valuation as provided for in this Charter, shall, on the first day of the fiscal year, furnish the City Treasurer with a copy of the final assessment roll containing the names of the taxables, as well as the owners of real estate and those not owning real estate, distinguishing between them, the tax levied on each person and also the tax on the entire valuation and assessment at a rate per one hundred dollars ($100). The assessment roll shall be certified true and correct by the Mayor and a majority of the members of Council.

Sec. 4-03 Payment of Taxes.

All taxes shall be paid to the City Treasurer at the City Hall during regular business hours. All taxes are due on September 30 (or on the next banking day, if September 30 is a weekend or holiday) of each year. On all taxes paid after September 30 there shall be paid a penalty of five percent (5%). There shall accrue interest on unpaid taxes at the rate of one percent (1%) per month or fraction thereof for each month unpaid after date due. All tax bills shall be sent out on or before August 15th of each year. Appropriate legal action shall be taken against all delinquent taxpayers whose taxes have become delinquent for period of two (2) years or more.

Sec. 4-04. Collection of Delinquent Taxes – Generally.

A. Tax Liens. The provisions of Title 25, Delaware Code Annotated, Chapter 29, as amended, with reference to tax liens shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter.

B. Debt Action. The City Treasurer may recover the amount of the tax due in an action of debt against the delinquent taxpayer in any court of competent jurisdiction; and it shall be sufficient to set forth that the action is to recover a specified sum of money, being a tax or taxes assessed against property owned by the defendant, in whole or in part, together with such description of the property as will be sufficient to identify the same and the year for which the taxes were levied. The right of appeal shall be the same as in other civil actions.

If a judgment be rendered in favor of the City Treasurer, there shall be an allowance for the additional expense in attending to the suit, including counsel fees. The amount of accrued interest, which shall be taxed by the court in the costs, thereupon execution shall issue against the real estate of defendant. No execution against the real estate shall issue except out of the Superior Court. Where such judgment is recovery from a lower court of competent jurisdiction and it is the desire of the City Treasurer to proceed against the real estate of the defendant, the City Treasurer shall take a transcript of the judgment from such lower court and cause the same to be entered in the Superior Court in and for New Castle County. When such transcripts are entered, the subsequent proceedings shall be the same as upon other judgments. The lien of the judgment, as aforesaid, shall be deemed to relate back and take effect from the date of the Certified City Treasurer's assessment roll.

C. Remedies Cumulative. The remedies herein provided are cumulative and, if two or more proceedings are pending to recover the amount due for taxes upon the same property for any year, neither proceeding shall be pleaded in bar or in suspension of other proceedings. However, when the full amount due for taxes upon the property for the year shall have been paid to the plaintiff in any proceeding, together with all costs in all proceedings then pending, the plaintiff shall enter upon the records thereof discontinuances thereof.

Sec. 4-05. Collection of Delinquent Taxes – Monition.

A. Monition Method Established. In addition to all existing methods and authority for the collection of taxes or special assessments due the City of Delaware City, the monition method and authority is established.

B. Praecipe; Judgment; Monition. The City may file, or cause to be filed, a praecipe in the office of the Prothonotary of the Superior Court in and for New Castle County, which praecipe shall contain the name of the person against whom the taxes or assessments sought to be collected were assessed, and a copy of the bills showing the amount of taxes or

assessments due and the property against which the tax or assessment was laid, and a statement of the lot number or numbers of the particular section in which said property is located. For the purpose of this and the next section, the street number or numbers also shall be sufficient identification and description of said property. The Prothonotary shall make a record of the same on the judgment records of said Superior Court against the property mentioned or described in said praecipe. Thereafter, upon a praecipe or monition filed in the office of said Prothonotary by the City, a monition shall be issued by the Prothonotary aforesaid to the Sheriff of New Castle County, which monition shall briefly state the amount of the judgment for the taxes or assessments due and the years thereof, together with a brief description of the property upon which said taxes or assessments are a lien.

C. Form of Monition. The monition shall be in substantially the following form:

> To all persons having or claiming to have any title, interest or lien upon the within-described premises, take warning that unless the judgment for the taxes or assessments stated herein is paid within twenty (20) days after the date hereof, or within such period of twenty (20) days, evidence of the payment of taxes herein claimed shall be filed in the office of the Prothonotary, which evidence shall be in the form of a receipted bill or duplicate thereof, bearing the date prior to the filing of the lien in the office of the Prothonotary for New Castle County, the City of Delaware City may proceed to sell the property herein mentioned or described for the purpose of collecting the judgment for the taxes or assessments herein stated.

Name of Person in Whose Name Property Is Assessed	Description of Property	Year or Years Amount of Judgment

D. Posting of Monition; Sheriff's Return; Alias and Pluries Monition. Said monition, or copy thereof, shall be posted by the Sheriff upon some prominent place or part of the property against which said judgment for the taxes or assessments is a lien. The Sheriff shall make due and proper return of his proceedings under said Monition to said Prothonotary within ten (10) days after the posting of said copy of monition as aforesaid. Alias or Pluries Monition may issue upon like praecipe. The posting of said Monition shall constitute notice to the owner or owners and all persons having any interest in said property.

E. Issuance and Form of Writ of Venditioni Exponas. At any time after the expiration of twenty (20) days following the return of the Sheriff upon such Monition, unless before the expiration of said twenty (20) days, the said judgment and costs on said judgment shall be paid or evidence of the payment of such taxes evidenced by a receipted tax bill or a duplicate thereof, bearing date therefor prior to the filing of said lien for record in the office of the Prothonotary as aforesaid, upon praecipe filed by the City of Delaware City through its attorney or any other person authorized on its behalf to collect taxes or assessments due to the

City of Delaware City, a writ of Venditioni Exponas shall issue out of the office of the said Prothonotary directed to the Sheriff, commanding the Sheriff to sell the property mentioned or described in said writ and make due return of his proceedings thereunder in the same manner as is not applicable with respect to similar writs of Venditioni Exponas issued out of the said Superior Court. Said writ shall be substantially in the following form:

COUNTY OF NEW CASTLE:

SS.

STATE OF DELAWARE:

TO THE SHERIFF OF NEW CASTLE COUNTY

GREETINGS:

WHEREAS, by a Monition issued out of the Superior Court dated at Wilmington, the ___ day of_ , A.D. 19 ____, IT WAS COMMANDED, that you should post the said Monition or copy thereof upon the real estate therein mentioned and described, and make a return to the said Superior Court within ten days after said posting. That on the ___ day of _ , A.D. 19 ____, you returned that a copy of the said Monition was posted on the real estate therein mentioned and described in the ___ day of , A.D. 19___.

We therefore now command you to expose to public sale estate mentioned and described in said monition as follows:

And that you should cause to be made as well a certain debt of ___ Dollars ($_____) lawful money of the United States, which to the said City of Delaware City, a municipal corporation of the State of Delaware, is due and owing, as also the sum of ___ Dollars ($_____) lawful money as aforesaid, for its costs, which it has sustained by the detaining of that debt, whereof the said __ was convicted as it appears of record and against which said property it is a lien;

And have you that money before the Judges of our Superior Court at Wilmington, on Monday, the __ day of next, to render to the said City of Delaware City, a municipal corporation as aforesaid, for its debt and costs as aforesaid, and this writ;

WITNESSETH, the Honorable _____ at Wilmington, the day of , A.D. 19____.

_____

Prothonotary

Upon the return of the proceedings under said writ of Venditioni Exponas, the Superior Court may inquire into the regularity of the proceedings thereunder, and either approve the sale or set it aside.

F. Title of Property Sold. Any real estate or interest therein sold under the provisions hereof shall vest in the purchaser all the right, title and interest of the person in whose name said property was assessed, and/or all right, title and interest of the person or persons who are the owner or owners thereof, and likewise freed and discharged from any dower or courtesy or statutory right, in the nature of a dower or courtesy, whether absolute or inchoate, in or to said real estate, and from all equity of redemption and liens and encumbrances held by persons and corporations against said property.

G. Redemption by Owner. The owner of any such real estate sold under the provisions of this Charter or his legal representatives may redeem the same at any time within one (1) year from the day the sale thereof is approved by the Court, by paying to the purchaser or his legal representatives, successors or assigns, the amount of the purchase price and fifteen percent (15%) in addition thereto, together with all costs incurred in the cause; or if the purchaser or his legal representatives, successors or assigns shall refuse to receive the same, or do not reside or cannot be found within the City of Delaware City, by paying said amount into said Court for the use of said purchase, his legal representatives or assigns.

H. Petition by Purchasers for Deed of Conveyance In the event that the owner of said property or his legal representatives shall fail to redeem said property as herein provided, the purchaser of said property or his legal representatives, successors or assigns may present a petition to the Superior Court setting forth the appropriate facts in conformity with this Charter and pray that the said Superior Court make an order directing the Sheriff, then in office, to execute, acknowledge and deliver a deed conveying the title to said property to the petitioner; and thereupon, the said Superior Court shall have power, after a hearing upon said petition, to issue an order directing the Sheriff to execute, acknowledge and deliver a deed as prayed for in said petition, and a description of said property by street number or by lot number or numbers of the particular section in which said property is located, together with a description of said property by metes and bounds.

I. Petition by Owner After Redemption for Entry on Judgment Record. If the owner of any real estate sold under an order of sale, or his legal representative, shall redeem said real estate, he may prefer to said Superior Court a petition setting forth that fact and thereupon the said Superior Court, after hearing and determining the facts set forth in said petition, shall have power to cause to be entered upon the record of the judgment under which said real estate was sold, a memorandum that the real estate described in the proceeding upon which said judgment was entered has been redeemed, and thereafter, the said owner shall hold such redeemed real estate subject to the same liens and the same order of priority as they existed at the time of the sale

thereof, excepting so far as the said liens have been discharged or reduced by the application of the proceeds by the said Sheriff from the said sale.

J. No Proceedings Unless Tax is a Lien Upon Property. No monition proceedings shall be brought under this Charter unless the tax or assessment sought to be collected hereunder shall, at the time of the filing of said petition in the office of the Prothonotary, be and constitute a lien upon the property against which the tax or assessment was assessed or laid. All taxes for City purposes which may hereafter be lawfully assessed on real estate shall constitute a prior lien thereon for a Period of ten (10) years from the first day of the City tax year succeeding the assessment of said taxes, but if the said real estate remains the property of the person to whom it is assessed, then the lien shall continue until the tax is collected and may, with all incidental costs and expenses, be levied by sale thereof as hereinbefore provided.

K. Counsel Fees, Purchase by City. The said tax lien and costs and reasonable counsel fees for the collection thereof shall be full paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility which real estate may be charged with or liable to. The City of Delaware City shall have the authority to authorize any person or persons to make a bid or bids at the sale of any real estate under the provisions of this Charter, and in the event that such person or persons is the highest and best bidder or bidders therefore, the title thereto shall be taken in the name of the City of Delaware City. The Council, by resolution duly adopted, is authorized and empowered to sell and convey any real estate purchased under the provisions herein.

L. Definition of Superior Court. Whenever the Superior Court is mentioned in this or the preceding Section of this Charter, the same shall be held to embrace the Judges or any Judge thereof, and any act required or authorized to be done under this or the preceding Section, may be done by the said Superior Court or any Judge thereof in vacation thereof, as well as in term time.

M. Fees and Costs. The fees and costs to be fixed in all monition proceedings under this and the preceding Sections, where not otherwise provided for, shall be set by the Council by ordinance. All other charges not covered by this and the preceding Sections shall be the same as are provided by law.

Article V Ordinance Procedure

Sec. 5-01. Ordinances Generally.

In addition to such acts of the Mayor and Council as are required by this Charter or by law to be by ordinance, every act of the Mayor and Council establishing a fine or penalty shall be by ordinance. Except as otherwise provided, every legislative act of Council which shall have the force of law shall be by ordinance and shall include an enacting clause which reads: "The Mayor and Council of the City of Delaware City hereby ordains:".

Sec. 5-02. Council Action on Ordinances.

A. Every proposed ordinance shall be introduced in writing. Any ordinance which amends an existing ordinance shall set out in full that part of the ordinance, section or subsection to be repealed or amended, and shall indicate the matter to be omitted. Every ordinance, except general modifications and revisions of City ordinances, shall contain not more than one subject which shall be clearly expressed in its Title.

B. An ordinance may be introduced by the City Manager, the Mayor, or any member of Council at any regular, adjourned or special meeting of the Council. Upon introduction of any ordinance, the City Secretary shall distribute a copy to the Mayor and each Councilperson and to the City Manager and City Solicitor, and shall file a reasonable number of copies in the City Hall and such other public places as the Mayor and Council may designate. No ordinance shall be passed unless it shall have been read in full or abstract at a previous meeting. After introduction and the first reading, the proposed ordinance shall be posted in five (5) prominent locations in the City, one of which shall include the City Hall, at least ten (10) days prior to the established hearing date, stating the time and place where said ordinance will be given a public hearing and be considered for final passage.

C. At the time of the stated meeting and public hearing, which can be a regular, adjourned or special Council meeting, the proposed ordinance shall be read in full or abstract and considered for passage. After the public hearing and consideration, the Council may finally pass the proposed ordinance, or a substitute version thereof which is substantially similar thereto.

D. The Mayor shall approve or veto all ordinances of the Council. If approved, the Mayor shall sign the ordinance and it shall be duly adopted. If vetoed, the Mayor shall write "vetoed" and place his/her initials thereafter; at the same time the Mayor shall state his objections in writing; whereupon the Council may reconsider its vote and if four-fifths (4/5) of all members elected to Council shall vote to override the Mayor's veto, then the ordinance shall

be duly enacted. If the Mayor fails to approve or veto any ordinance within fifteen (15) days of its final passage by Council, the ordinance shall be deemed to have been vetoed.

Sec. 5-03. Effective Date.

Except as otherwise provided in this Charter, every adopted ordinance shall become effective immediately upon adoption or at a later date as specified in the Ordinance.

Sec. 5-04. Adoption of Codes of Technical Regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that a copy of each adopted code of technical regulations as well as of the adopting ordinance shall be made available by the City Secretary or for purchase at a reasonable price.

Sec. 5-05. Authentication and Recordation.

The City Secretary shall authenticate by his/her signature and record in full, in a properly indexed book for that purpose, all ordinances and regulations adopted by the Council.

Sec. 5-06. Emergency Ordinances.

A. To meet a public emergency affecting life, health, property or the public peace, the Council may adopt emergency ordinances; but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by the City for any of its utilities, or authorize the borrowing of not more than three-tenths of one percent (0.3%) of the assessed valuation of the assessable and taxable real property within the limits of the City of Delaware City for emergency purposes.

B. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

C. An emergency ordinance may be adopted without a first reading, but copies of the ordinance shall be made available to the public prior to the meeting considering approval thereof, and time shall be set aside, prior to Council vote, for public comment.

D. An emergency ordinance may be adopted only by an affirmative vote of at least four (4) members of Council. After its adoption, the ordinance shall become effective upon its adoption or at such later time as it may specify; but, every emergency ordinance, including any

amendment made therein after its adoption, shall automatically stand repealed as of the ninety-first (91st) day following the date on which it was adopted, unless extended by regular ordinance enacted by the Council, and it shall be the duty of the City Secretary to so notify the Council.

Article VI Finances and Indebtedness

Sec. 6-01. Fiscal Year.

The City's fiscal year, which shall constitute the budget and accounting year, but need not constitute the tax year, shall commence on July 1 of each year and conclude upon June 30 of the following year, but the Mayor and Council may by ordinance adopt a different fiscal year.

Sec. 6-02. Payment of Moneys Out of the City Treasury.

All payments out of the City Treasury shall be by check of the City Treasurer and co-signed by the City Manager.

Sec. 6-03. Annual Operating Budget.

A. It shall be the duty of the Mayor and Council, at least before the end of the fiscal year, to adopt the annual operating budget for the next fiscal year. Such budget shall be adopted by resolution with a hearing as required by Section 6-05 of this Charter. The consideration of the operating budget shall begin forthwith upon the receipt from the Mayor or the City Manager of an annual written operating budget message and the proposed annual operating budget, which shall be submitted at the first regular meeting in May. The proposed budget shall be regarded as having been introduced immediately upon its receipt.

B. The annual operating budget shall provide for discharging any deficit and shall provide for appropriations to the Council, the Mayor and all officers, departments, boards and commissions which form a part of the City Government, and for all other items which are to be met out of the revenue of the City. All appropriations shall be made in lump sum amounts and according to the following classes of expenditures for each office, department, board or commission:

(1) Personal services;

(2) Materials, supplies and equipment;

(3) Debt service; and

(4) Such additional classes as the Mayor or the City Manager shall recommend in the proposed annual operating budget.

Expenditures of the repair of any property and for the acquisition of any property or for any work or project which does not have a probable useful life to the City of at least five (5) years following the time the expenditure is made for it shall be deemed to be ordinary expenses to

be provided for in the annual operating budget. Appropriations for the use of any departmental board or commission shall be made to the department with which it is connected.

Sec. 6-04. The Capital Plan and Capital Budget.

A. Generally. The Mayor and Council shall adopt a capital plan and capital budget, which shall be submitted with the annual operating budget on or before the first regular meeting in May. Such budget shall be adopted by resolution with a hearing as required by Section 6-05 of this Charter.

B. The Capital Plan. The capital plan should embrace all physical public improvements and preliminary studies and surveys relative thereto, the acquisition of property of a permanent nature, and the purchase of equipment for any public improvement when first erected or acquired that are to be financed in whole or in part from funds subject to control or appropriation by the Mayor and Council. It should show the capital expenditures which are planned for each of the five (5) ensuing fiscal years. For each separate purpose, project, facility, or other property there should be shown the amount, if any, and the source of the money that has been spent, encumbered, or is intended to be spent or encumbered prior to the beginning of the ensuing fiscal year and also the amounts and the sources of the money that are intended to be spent during each of the ensuing five (5) years.

C. The Capital Budget. The capital budget shall show in detail the capital expenditures intended to be made or incurred in the ensuing fiscal year that are to be financed from funds subject to control or appropriation by the Mayor and Council, and shall be in full conformity with that part of the capital plan applicable to the year which it covers. Amounts specified as intended to be spent out of new appropriations shall, upon enactment of the capital budget, constitute appropriations of such amounts.

Sec. 6-05. Mayor and Council Action on the Budgets.

A. The Mayor and Council shall cause to be posted in at least five (5) prominent places located in the City, one of which shall include the City Hall, a general summary of the proposed capital and operating budget, a notice of the times and places where copies of such budgets are available to inspection and the time and place for a public hearing on such budgets. Such notice shall be posted at least ten (10) days prior to such hearing.

B. After the public hearing the Mayor and Council may adopt, by resolution, the budgets with or without amendment. The Mayor and Council may insert new items of expenditure or may increase, decrease, or strike out items of expenditure, except that no item of appropriation for debt service shall be reduced.

C. The budget and tax rate shall be adopted prior to the beginning of the fiscal year for which such budget relates. If the Mayor and Council fail to so adopt, the budget for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items prorated accordingly, until such time as the Mayor and Council adopts a budget for the ensuing fiscal year.

D. All amendments to the budget shall be made at meetings open to the public; any amendment to the budgets shall require a public hearing with notice thereof posted in five (5) prominent places located in the City, one of which shall include the City Hall, at least-ten (10) days prior to the hearing.

Sec. 6-06. Power to Raise Revenue.

A. The Mayor and Council shall have the power to keep reserves and levy and collect taxes on real property within the City, except that which is not assessable and taxable by virtue of any law of the State of Delaware, which shall not be more than 2% of the assessed valuation of the assessable and taxable real estate within the City in any year clear of all delinquencies and expenses of collection; provided, however, in addition thereto, the Mayor and Council shall have the power to levy the taxes necessary to service the bonded indebtedness of the City.

B. The Mayor and Council shall have the right to grant or refuse, and to charge fees for licenses or permits for traveling shows and other businesses of any description within the City and to control their use of any property within the City. The Mayor and Council shall have the power to levy and collect franchise fees.

C. The Mayor and Council shall have the power to impose reasonable penalties and forfeitures for tax delinquencies, and to review and determine proper and appropriate properties to be exempt from taxation.

D. The Mayor and Council shall have the power to fix the rates for utilities operated by the City and to collect and utilize revenues from such utilities for the benefit of the City.

E. The Mayor and Council shall have the right to levy and collect taxes upon all gas mains, water lines and telephone, telegraph power poles or other erections of like character erected within the limits of the City of Delaware City, together with the wires, cables and appliances thereto or thereon attached, as well as such wires, cables and appliances which may be installed underground, and to this end may, at any time, direct the same to be included in or added to the City assessment. In case the owner or lessee of such poles or erections and such wires, cables and appliances shall refuse or neglect to pay the taxes that may be levied thereon, the said taxes may be collected as in the case of other taxes.

Sec. 6-07. Borrowing for Current Expenses and Capital Expenditures.

A. Whenever the needs of the City shall require more money than is, at the time, in the City treasury from current receipts, the Mayor and Council may, and it is hereby authorized and empowered, to anticipate current fiscal year revenue by borrowing such amounts as are needed; provided, however, the amount of such indebtedness shall not at any time exceed three quarters of one percent (.75%) of the assessed valuation of the assessable and taxable real property within the limits of the City.

B. The City of Delaware City shall have the full power and authority to borrow, for the exclusive purpose of financing a capital asset, upon the faith and credit of the City of Delaware City, a sum or sums of money not exceeding one and a quarter percent (1.25%) of the total assessed property value, exclusive of borrowing against current expenses referred to in subsection A hereof, when in the opinion of the majority of the Council the needs of the City demand it. The Council may secure such sum or sums of money by promissory note or notes, or certificates of indebtedness of the City of Delaware City, duly authorized by resolution of the Council, signed by the City Secretary, and by the Mayor or Acting Mayor, with or without the corporate seal of the City affixed in accordance with the request of the person or corporation advancing the money on said notes or certificates, and no officer, Mayor or Council member shall be personally liable for the payment of such note or notes, because of his signature as an officer of the Council, his membership in Council or his approval of the authorizing resolution. Provided however, that any sum of money borrowed by the Council on the full faith and credit of the City as aforesaid, shall be repaid in full, together with all interest and charges thereon, within a period not to exceed the estimated useful life of the capital asset or ten (10) years whichever is less and shall be repaid in equal annual installments.

This provision in no way shall be intended to apply to the right of the Mayor and Council to submit to the voters for their approval major capital improvement projects to be financed by long term bond issue as provided for in this Charter.

Sec. 6-08. Power to Incur Bonded Indebtedness.

A. Power to Borrow Money. The City may incur indebtedness by issuing either general obligation bonds or certificates of indebtedness secured by the full faith and credit of the City, or by issuing revenue bonds, either in whole or in part of the total amount necessary to provide funds for the erection, extension, enlargement or repair of any plant, machinery, appliances or equipment for the furnishing of water; for the construction, repair or improvement of highways, streets or lanes, or the paving, curbing, or erection of gutters along the same; for the construction or repair of sewers or sewage disposal equipment; or to defray the cost of the share

of the City in the cost of any permanent municipal improvement; or to replace any monies advanced from current funds of the City to finance any one or more of such projects; or to carry out any capital improvement project deemed by the Mayor and Council to be necessary to the proper execution of any function or power of the City.

If general obligation bonds are issued, the total outstanding debt secured by such bonds shall not exceed fifteen (15) per centum of the assessed value of all the real estate subject to taxation located within the City.

If revenue bonds are issued, each such bond shall recite in substance that said bond, including interest therein, is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the City of Delaware City within the meaning of the bonded indebtedness limitation; provided, however, that in the event of some emergency, the City may temporarily borrow, advance or loan such amount as is necessary to meet current interest on outstanding bonds, such advance or loan to be repaid to the City of revenue subsequently received from the undertaking. If revenue bonds are issued, the Mayor and Council shall prescribe and have collected reasonable rates, fees or charges for the service, facilities and accommodations of said undertaking and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will procure revenue at least sufficient to pay, when due, all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and to provide for all expenses of operation and maintenance of such undertaking, payments in lieu of taxes, depreciation and other reserves.

No capital improvement bonds, notes or certificates of indebtedness may be authorized, which bonds are payable more than forty (40) years from the date of issuance thereof.

B. Method of Borrowing Money. Before the City may incur indebtedness by the issuance of bonds as set out in the preceding Section, the borrowing of money shall have been authorized by the Mayor and Council and shall have been approved in the manner set out in this Section.

(1) The Mayor and Council shall, by resolution, propose to the qualified voters according to law in the City of Delaware City the purposes for which the stated amount of money shall be borrowed. The resolution shall state the amount of money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan, including data on total related debt and the debt limitations established by this Charter, shall fix a time and place for hearing on the resolution; and shall provide for publication of an announcement of the hearing in a newspaper of general

circulation in the City and posting of the announcement in at least five (5) prominent places in the City, one of which shall include the City Hall, at least ten (10) days prior to the hearing date.

(2) A public hearing shall be held, at which time all interested persons shall be given an opportunity to express their views. Their testimony shall be given in evidence by the Mayor and Council.

(3) If the Mayor and Council desire to continue with the bond proceedings, they shall then, by resolution, direct that the question be submitted to the public by a referendum. An election shall be held not less than thirty (30) days nor more than sixty (60) days after the date of such resolution.

(4) The notice of the time and place for holding said special election shall be printed in a newspaper of general circulation in the City once a week for two (2) consecutive weeks prior to the election and notice of such election shall be placed on the City website and in five (5) prominent places in the City, one of which shall include the City Hall, at least ten (10) days prior to the special election. The special election shall be conducted by the Election Board as herein established and provided for regular general elections.

(5) The Mayor and Council shall cause the Election Board to prepare the voting machines and to hold the referendum. At said referendum, qualified voters in the City of Delaware City shall be entitled to one vote. In addition thereto, every corporation or artificial entity owning property in the City of Delaware City shall be entitled to one vote under this Section.

(6) The Election Board shall count the votes for and against the proposed bond issue and shall announce the result thereof; shall make a certificate under their hands of the number of votes cast for and against the proposed issue; and shall deliver the same to the Mayor and Council, which certificate shall be entered on the Council minutes and the original thereof filed by the City Secretary. No bond issue shall be deemed approved unless a majority of those voting at such referendum shall vote for such bond issue.

(7) The form of bond or certificate of indebtedness, the interest rate, the date or dates for payment of interest, the classes, the date on dates of maturity, and the provisions pertaining to the registration shall be determined by the Mayor and Council after the said special election provided for in this Section. The bonds may be sold at either public or private sale as determined by the Mayor and Council. The Mayor and Council shall provide, in the budget, and in fixing the rate of tax, for revenues sufficient for payment of interest and principal of said bonds or certificates at the maturity or maturities thereof. The full faith and credit of the City shall be deemed to be pledged for the due payment of the principal and interest of general obligation bonds issued within the

prescribed debt limitation when the same have been properly executed and delivered for value, and there shall be no limitation upon the amount of taxes which may be raised by taxation for the payment of interest on principal of any bonded indebtedness or certificate or certificates issued pursuant to the provisions of the Act.

Sec. 6-09. Independent Audit.

Annually, the Mayor and Council shall designate a firm of certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of fiscal transactions of the City government and shall submit their report to the Council. Such accountants shall have no direct or indirect personal interest in the fiscal affairs of the City government or of any of its officers. They shall not maintain any accounts for the City, but shall, within specifications approved by the Council, audit the books and documents of all appropriate officers and employees of the City government in all departments, offices and agencies. Designation of the accountants shall be made by the Council not later than thirty (30) days after the beginning of the fiscal year for which the audit is to be conducted. When received, the audit report shall become part of the Council minutes.

Article VII City Appointive Offices

Sec. 7-01. City Solicitor.

The Mayor, with the advice and consent of a majority of all members of Council, shall appoint an officer of the City who shall have the title of City Solicitor. He/she shall be a member of the Bar of the State of Delaware and shall have practiced law for at least two (2) years prior to appointment. It shall be the duty of the City Solicitor to give legal advice to the Mayor and Council, the City Manager, department heads and other officers of the City, and to all City departments, offices or agencies; he/she shall represent the City in all legal proceedings and shall perform such other legal services as may be required by the Mayor, Council, City Manager, this Charter, law or ordinance. Council may procure such additional legal services as it may deem to be required. The City Solicitor shall serve at the pleasure of the Mayor and three (3) members of Council or four (4) members of Council.

Sec. 7-02. Assessor.

The Mayor shall appoint, with the approval of majority of all members of Council, an Assessor, either an individual, firm or other similar type organization. The Assessor need not be a resident of the City of Delaware City. The Assessor shall be appointed at the first regular Council meeting in January for a term of two (2) years and prior to entering upon the duties of the office, as set forth in Article IV, shall be duly qualified by oath or affirmation to perform the duties of the office to the best of his/her ability and knowledge, without favor or partiality. The Assessor may be removed from office by the Mayor and three (3) members of Council or four (4) members of Council.

Sec. 7-03. City Secretary.

The Mayor shall appoint with the advice and consent of a majority of all members of Council an officer of the City who shall have the title City Secretary. The City Secretary shall be appointed at the first regular Council meeting in April or the organizational meeting for a term of two (2) years. The City Secretary shall give notice of Council meetings to its members and the public, keep minutes of Council meetings and hearings and all official proceedings, file and keep in a safe place the Seal of the City, attest the same when authorized by Council, keep all papers and documents relative to the affairs of the City which shall be deemed appropriate to be kept in his/her office, and perform such other duties as may be designated by the Mayor and Council, City Manager, this Charter or ordinance. The responsibilities and duties of the City Secretary may be

assigned to or combined with another office or department of the City government upon approval of the Mayor and Council. The City Secretary may be removed from office by the Mayor and three (3) members of Council or four (4) members of Council.

Sec. 7-04. City Treasurer.

The Mayor shall appoint with the advice and consent of a majority of all members of Council an officer of the City who shall have the title City Treasurer. The City Treasurer shall be appointed at the first regular Council meeting in April or organizational meeting for a term of two (2) years. The City Treasurer shall keep a true, accurate and detailed account of all monies received and all monies paid out by the City in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the Mayor and Council, may periodically destroy such records and vouchers. The City Treasurer shall make such reports at such time as the Mayor and Council and City Manager shall direct and which shall keep the City Government and the public informed of the financial condition of the City. The City Treasurer shall have such other duties as may be prescribed by this Charter, by law or by ordinance. The City Treasurer shall be custodian of all funds of the City, and shall deposit them on a regular basis in banking institutions located in the City, as designated by the Mayor and Council. The books, records and accounts of the City Treasurer shall be open at all times to inspection by the members of the Mayor and Council and the public under such regulations as the Mayor and Council may prescribe. The City Treasurer may be removed from office by the Mayor and three (3) members of Council or four (4) members of Council.

Sec. 7-05. Members of Boards, Bureaus and Commissions.

Except as expressly otherwise provided and subject to the limitations set forth in this Charter, the Mayor shall appoint with the advice and consent of a majority of all members of Council, all members of Boards, Bureaus and Commissions created by this Charter, by law or by ordinance. Members of Boards, Bureaus and Commissions, may be removed from office by the Mayor and three (3) members of Council or four (4) members of Council.

Sec. 7-06. Alderman.

The Mayor and Council may, but shall not be required to, seek to install an Alderman for the City of Delaware City. The Mayor may recommend, with the advice and consent of four (4) members of Council an officer of the City who shall, upon proper appointment, have the title Alderman. The Alderman, however, must be appointed by the Governor, by and with the consent

of a majority of all members elected to the Senate, for such terms as shall be fixed by the Delaware Constitution or by State law. Any Magistrate or Justice of the Peace serving the State of Delaware maybe designated to also serve as or handle the functions of the Alderman for the City, but he/she shall not be a member of Council or the City Solicitor.

In the event that there is no certified Alderman within the City, the members of the Delaware City Police Department are directed to take all violators to the nearest available Magistrate who is authorized to serve in the capacity of Alderman.

The compensation of the Alderman shall be fixed by ordinance, and unless otherwise provided by the Mayor and Council by ordinance, the Alderman shall not retain any fines levied by the Court, but must pay such fines into the City Treasury within fifteen (15) days of collection. Before entering upon the duties of his/her office, he/she shall be sworn or affirmed by the Mayor or by any one of the Councilpersons or by any Justice of the Peace, to perform the duties honestly, faithfully, and diligently. The Alderman shall have jurisdiction of all violations of ordinances of the City and of all misdemeanors prescribed by any law of the State of Delaware committed within the boundaries of the City. The Alderman shall have power and authority to hold for bail, fine or imprison offenders, compel the attendance of persons accused of violation of City ordinances by service of process either within or without the limits of the City, compel the attendance of witnesses, and hold or punish for contempt; provided that in the case of a violation of an ordinance, he shall impose no fine or penalty in excess of that fixed by the ordinance, and shall not commit to prison for a longer term than thirty (30) days in default of the payment of a fine imposed by him. He/she shall keep a book to be called "Alderman's Docket," in which shall be entered at large all his/her official acts. If any vacancy shall occur in the office of the Alderman by death, resignation, removal from office, or otherwise, such vacancy may be filled by Council at any meeting thereafter for the residue of the term. If any Alderman shall be removed from office by the Council as herein provided, he/she shall deliver to his/her successor in office within two (2) days after the appointment of his/her successor, all books and papers belonging to his/her office, and shall pay over to the Treasurer of the City all monies belonging to the said City within five (5) days after removal; upon neglect or failure to deliver to his/her successor in office, within the time aforesaid, all the books and papers belonging to office, or upon neglect of failure to pay over to the Treasurer of the City, within the time aforesaid, all monies belonging to the City, he/she shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than One Hundred ($100) nor more than Five Hundred ($500) Dollars.

The Alderman, at every stated meeting of the Council, shall report to it all fines and penalties imposed by him/her since their last meeting, and to pay to the Treasurer of the City all such fines and penalties received by him/her during the said time, and in default of making such report or paying such fines and penalties for a period of thirty (30) days after such report should be made and such fines and penalties should be paid aforesaid, he/she shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than One Hundred Dollars ($100) nor more than One Thousand Dollars ($1,000).

Article VIII Election Rules and Procedure

Sec. 8-01. The General Municipal Election.

The General Election shall be held in the City Hall or some other suitable building within the City limits designated by the Mayor and Council on the first Tuesday in April of each and every year. The City Secretary shall post a notice of solicitation of candidates conspicuously within the municipality twenty (20) days prior to the filing deadline for the offices up for election, which shall include the term or terms of each office up for election, the deadline and procedure for declaring candidacy for an office up for election, and the qualifications for holding each office. The City Secretary shall also post a notice of election conspicuously at least twenty (20) days prior to the election or referendum, and such notice shall contain the date, time, and location of the election, the candidates for each office on the ballot or the referenda to be considered, and the qualifications to vote in the election. All such notices shall be posted on the City's website and in five or more public places in the City of Delaware City, one of which shall include City Hall. All such notices shall also include information about how to obtain an absentee ballot.

Sec. 8-02. Filing for the Office of Mayor and Councilperson.

Filing for the office of Mayor and Councilperson shall be by letter signed by the candidate and there shall be no party designation on any such letter beside the name of any candidate or on any ballot in any municipal election.

All persons desiring to be candidates at any municipal election shall file with the City Secretary of the City of Delaware City a written and signed statement of their candidacy at the City Hall during normal business hours; for Councilperson, not later than thirty (30) days before the election; and for Mayor, not later than sixty (60) days before the election. The City Secretary is authorized to accept a notice of withdrawal signed by the candidate up until twenty (20) days before the election. If a seated Councilperson is elected Mayor, he/she must resign that office effective the first regular meeting in April and prior to the installation of the new officials.

Sec. 8-03. The Election Board of Delaware City.

All municipal elections shall be held by an Election Board consisting of not less than three (3) nor more than five (5) qualified voters, not Councilpersons, appointed annually by the Mayor, with the advice and consent of a majority of all members of Council.

The Election Board shall perform all functions required of the Board pursuant to Title 15 of the Delaware Code and as established by ordinance. In addition, when the polls have been

closed, the Election Board shall publicly count and/or tabulate the ballots, certify the results of the election to each of the persons elected and to the Mayor and Council by giving them "Certificates of Election" and enter the results of the election, by name, office and ballot count, as a minute of such election in a book designated for that purpose.

Sec. 8-04. Voter Qualifications.

A "qualified voter" is a natural person that has reached the age of eighteen (18) years of age, who is a citizen of the United States, is registered to vote under the State voter registration system maintained by the Department of Elections, and maintains his or her permanent place of residence within the City limits of the City of Delaware City. Any person who can prove the foregoing by proper identification, as required by Del. Code Ann. tit. 15, § 7554(d) as may be amended from time to time, shall be entitled to vote at all regular and special municipal elections and referenda.

Sec. 8-05. Absentee Voting.

Absentee ballots by qualified voters unable to be at the polls at any election or referendum shall be governed by the requirements of Title 15, Chapter 75, and Subchapter V of the Delaware Code, as amended from time to time.

Sec. 8-06. Polling Places and Regulations.

The Mayor and Council shall designate the polling places which shall be open from 12 o'clock noon to 8 o'clock p.m. on all municipal election and referendum days. The Mayor and Council shall, by ordinance, make all necessary regulations not inconsistent with this Charter or with State laws, for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud.

Sec. 8-07. Voting Machines.

Voting machines shall be used at all municipal elections in which a contest exists and shall be so constructed as to permit the voter to vote for the candidates duly nominated pursuant to the provisions of this Charter or to write in the name of any candidate of his choice for any office. The official ballots provided for municipal elections shall contain the names of all nominees for the office of Mayor, listed alphabetically under a heading reading "CANDIDATES FOR MAYOR --- VOTE FOR ONLY ONE". The ballots for Councilpersons shall contain the names of all nominees for the office of Councilperson, listed alphabetically

under a heading reading "CANDIDATES FOR COUNCIL"; thereunder shall be a designation of the number of Council seats open and an instruction to vote for only that number of nominees for Council; i.e., "3 COUNCIL SEATS --VOTE FOR ONLY 3". A plurality of all votes cast shall make the choice. If a one-year seat is open for election a separate designation shall be made for that one-year term on the ballot.

Sec. 8-08. Failure to Hold Election, Uncontested Election.

A failure to hold an election, or the omission to execute any authority conferred by this act, shall not dissolve the corporation, but the authority of each officer shall continue until their successors are chosen. Any qualified voter under this Charter can bring an action in any competent court in the State of Delaware to compel the Mayor and Council to cause such an election to be held, at which election the Mayor and all Members of Council shall be elected; those receiving the highest number of votes receiving the longer terms and those receiving a lesser number of votes receiving the shorter term, until all offices are filled.

In the event an election is not contested, and it shall not be necessary to open the polls. The requirement for a voting machine shall be dispensed with in the event the entire election is uncontested.

Article IX City Manager

Sec. 9-01. Appointment; Qualifications; Compensation.

The Mayor shall appoint a City Manager for an indefinite term and fix his compensation subject to confirmation and approval of a majority of all members of Council. The City Manager should be appointed on the basis of his executive and administrative qualifications. In the performance of his duties and the exercise of his powers, the City Manager shall not be influenced by any matters whatsoever of a political or factional nature. He need not be a resident of the City or state at the time of his appointment, but may reside outside the City while in office only with the approval of the Mayor and Council.

Sec. 9-02. Removal.

A. The City Manager may be removed by the Mayor with the consent of a majority of all members of Council or by four (4) members of Council without the Mayor's consent. Before such removal shall become effective, the Mayor and/or Council shall, by the Mayor and majority vote of all members of Council or by four (4) members of Council without the consent of the Mayor, adopt a preliminary resolution stating the reasons for removal and may suspend the City Manager from duty without pay and for a period that the Mayor and Council deem appropriate.

B. Within five (5) days after a copy of the resolution is delivered to the City Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The City Manager may file with the Council a written reply not later than five (5) days before the hearing.

C. The Mayor and Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of the Mayor and a majority vote of Council or by four (4) members of Council without consent of the Mayor at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the City Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The City Manager, if suspended without pay shall receive compensation for the period of suspension if he is not ultimately removed, unless otherwise modified by Contract. The action of the Mayor and/or Council in suspending or removing the City Manager shall not be subject to review by any court or agency.

Sec. 9-03. Absence of City Manager.

In case of the temporary absence or disability of the City Manager, the Mayor, with the advice and consent of a majority of all members of Council, shall designate some qualified person, who may be an elected or appointed official of the City of Delaware City, to perform the duties of such office during such absence or disability.

During such temporary absence or disability, the Council may revoke such designation by majority vote at any time and appoint another qualified person to serve until the City Manager shall return or until such disability shall cease. In the case of the permanent absence of a City Manager, the Mayor, with the advice and consent of a majority of all members of Council, shall designate a qualified person to serve until a new City Manager is hired.

Sec. 9-04. Powers and Duties of the City Manager.

The City Manager shall be the chief administrative officer of the city. He or she shall be responsible to the Mayor and Council of Delaware City for the proper administration of the affairs of the City placed in his/her charge by or under this Charter. The City Manager shall be prepared to report to the Mayor and Council at each regular meeting on the activities and achievements of the prior month. He or she shall have the following powers and duties:

A. Personnel. The City Manager shall have the power to make such appointments and to hire employees at such compensations as the Mayor and Council, by Resolution, shall determine, subject to such rules and regulations as may be adopted by the Mayor and Council. All employees shall be hired for an indefinite term and may be removed by the City Manager at any time unless otherwise provided by Resolution of the Mayor and Council. The City Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by him. However, the Mayor and Council shall sit as a Board of Appeal for the protection of City employees at those times when a majority of the Mayor and Council are agreed that a review of the action of the City Manager would be in the best interests of the City of Delaware City. An aggrieved employee of the City shall have the right to petition for a hearing before such Board of Appeal; provided that the petition is received by the Mayor and Council within ten (10) days of receipt of written notice of termination or suspension. The decision of a majority of the Mayor and Council shall be final and conclusive.

B. The City Manager shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter, or by ordinance, resolution or other law.

C. The City Manager shall attend all Council Meetings and shall have the right to take part in the discussion, but shall not vote. The City Manager shall see that all laws, ordinances, provisions of this Charter and acts of the Mayor and Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

D. The City Manager shall prepare and submit the annual operating budget, capital plan and capital budget to the Mayor and Council according to the requirements of this Charter.

E. The City Manager shall submit to the Mayor and Council and make available to the public a complete report on the financial and administrative activities of the City as of the end of each fiscal year.

F. The City Manager shall keep the Mayor and Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Mayor and Council concerning the affairs of the City.

G. The City Manager shall prepare and submit such reports or special assignments as may be required by the Mayor and Council. He shall perform such other duties as may be prescribed by this Charter or required of him by Ordinance or Resolution of the Mayor and Council.

H. The City Manager shall have charge and supervision of the streets, gutters, curbs, sidewalks, boardwalks, jetties, piers, parks and other administrative affairs of the City and all work relating thereto.

I. The City Manager shall have charge of and shall collect all taxes, assessments, rentals, license fees, and other charges due the City. He shall pay over to the City Treasurer at least weekly and more often if required by the Mayor and Council, all moneys received or collected by him and by any employee under his supervision. He shall keep a full and strict account of all moneys received and all disbursements made by him and such accounts shall at all times be open to inspection to the Mayor and Council;

J. The City Manager shall execute on behalf of the City, when authorized by the Council, all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed. The City Manager shall countersign all orders, drafts and checks authorized by the Council and drawn on the City Treasury for payment of money.

Article X City Administration

Sec. 10-01. Police Department.

A. There shall be a Police Department which shall be directed and supervised by a police officer of the City who shall have the title of Chief of Police. The Mayor and Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the Police Department. The Police Department shall preserve peace and order and shall compel obedience within the City limits to the Ordinances of the City and the laws of the State of Delaware. The Police Department shall have such other duties as the Mayor and Council shall, from time to time, prescribe. The Chief of Police and the members of the Police Department shall be subject to the direction of the City Manager, acting on behalf of the Mayor and Council.

B. Each member of the Police Department shall be vested, within the City limits and within one (1) mile outside the City limits, with all powers and authority of a constable of New Castle County, and may carry firearms, and in the case of pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

Sec. 10-02. Board of Health and Public Safety

A. The Board of Health and Public Safety shall consist of up to seven (7) members, the majority of which shall be residents of Delaware City, one of whom shall be a practicing physician, if available, one of whom may be a representative of the Delaware City Fire Department and one of whom may be a Councilperson who is assigned to the Board of Health. The Board shall be appointed by the Mayor, with the advice and consent of a majority of all members of Council. Appointments shall be made as vacancies arise and shall be for the remainder of the term. Members shall serve at the pleasure of the Mayor and Council for a period of two (2) years and shall be appointed at the first regular meeting of the Mayor and Council in May in the odd numbered years or until their successors are duly appointed and qualified. The representatives of the Fire Department and the practicing physician need not be a resident of the City or state at the time of their appointment, but may reside outside the City while in office only with the approval of the Mayor and Council.

B. The Board of Health and Public Safety shall have cognizance of an interest in the life, health and public safety of the people of Delaware City and shall report to the Mayor and Council in writing whatever in its judgment is injurious to the health and safety of the citizens and shall make recommendations to the Mayor and Council concerning whatever may contribute to

the health, sanitation and public safety of the citizens of the City of Delaware City. The Board shall have all powers now or hereafter vested by the laws of the State of Delaware in Boards of Health and Safety generally, and also such additional powers as may be conferred by ordinance.

C. The Board of Health shall organize annually and elect a Chairperson and Secretary who shall keep a record of their proceedings and acts.

D. The Board of Health shall have the power to recommend the adoption of ordinances relating to the health and public safety of the citizens or nuisances affecting the same and such ordinances, when adopted by the Mayor and Council, shall extend to an area outside the City limits for a distance of one (1) mile.

Sec. 10-03. Creation of Departments.

The Mayor and Council may establish City departments, offices or agencies in addition to those created by this Charter, and may prescribe the functions of all departments, offices or agencies; provided however, that the number of departments, offices or agencies shall not be excessive, and each of which shall be headed by or under the direction of the City Manager or a single person appointed by the City Manager; provided however, that special offices, commissions, committees and boards appointed or selected by the Mayor, with the advice and consent of a majority of all members of Council, may not be included in the above-referenced limitations or under the direction of the City Manager.

Sec. 10-04. Purchases and Contracts.

All contracts for the purchase of materials or for the furnishing of services shall be accomplished under procedures established by ordinance.

Sec. 10-05. Administrative Policy.

A. The administrative policies of the City of Delaware City shall be prepared by the City Manager and shall be adopted by the Mayor and Council by ordinance with or without amendment. However, all appointments and promotions of City employees under the direction of the City Manager shall be made solely on the basis of merit and fitness for the position concerned.

B. The Mayor and Council shall establish, by ordinance, a code of ethics which shall apply to all employees and officials of the City including, but not limited to, appointed, elected, part-time, full-time employees and officials and members of Boards, committees and commissions.

Article XI Planning

Sec. 11-01. Planning Commission.

The Mayor, with the advice and consent of a majority of all members of Council, shall appoint a Planning Commission consisting of seven (7) members at large. Appointments shall be made as vacancies arise and shall be for terms of two (2) years. The compensation of the Planning Commission, if any, shall be determined by the Mayor and Council. They shall receive reimbursement for actual and necessary expenses incurred in traveling on official business approved by the Mayor and Council.

The powers, duties and scope of activities of the Planning Commission shall be determined by ordinance. The Commission shall advise the Mayor and Council on zoning and land subdivision matters, on the comprehensive development plan, on flood plain regulation, on the official map of the City, and on such other matters as shall be contained in said ordinance.

The Planning Commission shall elect annually, from among its members, a Chairperson and Secretary. The Commission shall have no authority to employ persons, disburse monies, make contracts, or to exercise administrative authority in any manner whatsoever, but all such employees engaged in planning matters, and all disbursements, contracts and administrative duties shall be under the direct supervision of the City Manager.

Sec. 11-02. Comprehensive Development Plan.

A. Development. The Mayor and Council shall adopt and update as required by state law, and may from time to time modify, a comprehensive development plan setting forth in graphic and textual form policies to govern the future physical development of the City. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas. Such comprehensive development plan shall show, among other things, existing and proposed public ways, streets, bridges, tunnels, viaducts, parks, parkways, playgrounds, sites for public buildings and structures, pierhead and bulkhead lines, waterways, routes of railroads and buses, locations of sewers, water mains, and other public utilities, and other appurtenances of such a plan including certain private ways. Such plan shall be adopted and have the effect as set out herein.

B. Adoption of the Development Plan. The City Manager shall propose a comprehensive plan, portions thereof, or proposed modifications thereto, to the Mayor and Council. The Mayor and Council shall refer such proposal to the Planning Commission, which shall, within a time specified by the Mayor and Council, prepare the plan and report its

recommendations thereon. After receipt of the recommendations of the Planning Commission, the Mayor and Council shall hold a public hearing on the proposed comprehensive plan or modification thereof, and may thereafter adopt it by ordinance with or without amendment. The comprehensive development plan shall serve as a guide to all future action of the Mayor and Council concerning land use and development regulations, urban renewal programs, and expenditures for capital improvements.

C. Implementation of the Development Plan. The Mayor and Council may, by ordinance adopt land use and development regulations including, but not limited to zoning and subdivision regulations. The Mayor and Council may, by ordinance, provide for redevelopment, rehabilitation, conservation and renewal programs for the alleviation or prevention of slums, obsolescence, blight, or other conditions of deterioration, and the achievement of the most appropriate use of land.

Before acting on any proposed ordinance concerning land use and development regulations, urban renewal, or expenditures for capital improvements, where such ordinance refers to a matter covered by the comprehensive development plan or the official map, the Mayor and Council shall refer the proposal to the Planning Commission, which shall, within a time specified by the Mayor and Council and prior to the public hearing on the proposed ordinance, report its recommendations thereon. Upon adopting any such ordinance, the Mayor and Council shall make findings and report on the relationship between the ordinance and the comprehensive plan, and in the event that the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

Sec. 11-03. Official Map.

A. Adoption of Official Map. The Mayor and Council shall have the authority to adopt an official map showing the public ways and parks within the City as therefore laid out and established by law and the private ways then existing and used in common by more than two owners. Such official map is hereby declared to be established to conserve and promote the public health, safety and general welfare. Upon the adoption of such an official map, and upon any change therein or addition thereto made, as hereinafter provided, the City Secretary shall forthwith file with the Recorder of Deeds in and for New Castle County a certificate of such action and a copy of such official map as adopted or as changed or added to.

B. Changes in Official Map. The Mayor and Council may, whenever and as often as it may deem it for the public interest, change or add to such official map so as to place thereon lines and notations showing existing or proposed locations not theretofore mapped of new or widened public ways and new or enlarged parks and proposed discontinuances in whole or in

part of existing or mapped public ways and parks. No such change or addition shall become effective until after a public hearing in relation thereto before the Mayor and Council, at which parties in interest shall have an opportunity to be heard. At least ten (10) days' notice of such a public hearing shall be given by advertisement in a newspaper of general circulation in the City.

After the Mayor and Council has adopted an official map as herein provided, no public way shall be laid out, altered, relocated or discontinued if such laying out, alteration, relocation or discontinuance is not in accordance with such official map as it then appears. After such adoption, no person shall open a way for public use, except as provided under this Charter, unless the location of such way is in accordance with the official map as it then appears, and the grading, surfacing and draining of such way have been approved by the Mayor and Council or the City Manager.

Upon final action by the proper authorities in laying out, altering or relocating a proper way, or in the discontinuing the whole or any part thereof, or in establishing or enlarging a public park or closing thereof in whole or in part, the lines and notations showing such improvement, discontinuance or closing as so established or effected shall, without further action by the Mayor and Council, be made a part of the official map.

C. Enforcement of Official Map. Officers and employees of the City may, so far as they deem it necessary in carrying out the provisions of the preceding Section, enter upon any lands and there make examinations and surveys, and place and maintain monuments and marks.

The Mayor and Council may petition the Court of Chancery for the State of Delaware to enforce any of the provisions of the preceding two Sections, and any ordinance made thereunder, by restraining by injunction violations thereof.

Sec. 11-04. Limitations on Planning.

The provisions of the preceding three Sections shall not be construed to authorize the taking of land nor the authorization of the City to lay out or construct any way which may be indicated on any plan or plot until such way has been laid out as a public way in the manner prescribed by law; nor shall any of the provisions of the preceding three Sections be construed to render the City liable for damages except as may be sustained by reason of changes in the official map.

Article XII General Provisions

Sec. 12-01. Personal Financial Interest.

Any City officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a City officer or employee in making of such sale or in the making or performance of such contract. Any City officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City Manager or the Mayor and Council.

Sec. 12-02. Performance Bonds.

The Mayor, City Manager, City Secretary and City Treasurer, and such other officers and employees of the City as the Mayor and Council may require, shall give bonds for the faithful performance of their duties in such amounts and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the City.

Sec. 12-03. Actions or Suits; Notice of Claim.

No action, suit or proceeding shall be brought or maintained against the City of Delaware City for damages, either compensatory or punitive, on account of any physical injury or injuries, death or injury to property by reason of negligence, simple, gross, or willful or wanton of the said City of Delaware City, or any of its departments, officers, agents, servants or employees unless the person by or on behalf of whom such claim or demand is asserted, within ninety (90) days from the happening of said injury or the suffering of such damages shall notify the City of Delaware City in writing of the time, place, cause, circumstances of the occurrence, character and extent of the injury sustained or damages suffered, name and residence of person or persons on whose behalf the claim is made, names of witnesses to the occurrence, and that the person on whose behalf the claim is made will claim damages therefor from the City. Such notice shall be directed to the Mayor of the City of Delaware City by certified mail with return receipt requested and postage prepaid. Nothing herein shall act as a limitation of defenses available to the City of Delaware City under applicable state or federal law.

Sec. 12-04. Oath of Office.

Every member of the Mayor and Council, the City Manager, the City Treasurer, the City Secretary, the Alderman, the heads of all departments, and such other officers or employees as Council may by ordinance require, shall, before entering upon the duties of their office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Secretary:

> "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Delaware, that I will uphold the Charter and ordinances of Delaware City, and that I will faithfully discharge the duties of the office of _____ according to the best of my ability,"

The Mayor, members of Council, Alderman, and City Secretary shall have the power to administer oaths required by this Charter.

Sec. 12-05. Charter Amendments.

The Mayor and Council may, by ordinance, provide a procedure by which it may propose to the voters an amendment to this Charter, but said procedure shall, in all respects, comply with applicable State law. Referendum on such amendments proposed may be held at regular or special election, as determined by the Mayor and Council by resolution. Amendments to this Charter to be voted on at referendum shall be presented for voting by ballot title. The ballot title may differ from its legal title and shall be a clear, concise statement describing the substance of the proposed amendment without argument or prejudice. Below the ballot title shall appear the following question: "Shall the Above-described Amendment be Adopted?". Immediately below such question shall appear in the following order the words, "YES" and "NO", and to the left of each, a square in which, by making a mark, the voter may cast his vote. Votes shall be counted and results determined in the same manner as for Council elections. Amendments receiving a majority of the votes cast on the question shall be processed and adopted in accordance with State law.

Sec. 12-06. General Prohibitions.

A. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of sex, age, race or political or religious opinions or affiliations.

B. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this

Charter, or the regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions and regulations.

C. No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for, or in connection with, his test, appointment, proposed appointment, promotion or proposed promotion.

D. No officer or employee of the City, whether elected or appointed, shall promise an appointment to any City position as a reward for any political activity.

E. Any person who, by himself or with others, willfully violates any of the provisions of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than three hundred dollars ($300), or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment, and shall further be ineligible for a period of five (5) years thereafter, to hold any City office or position, and if an officer or employee of the City, shall immediately forfeit his office or position.

Sec. 12-07. Indemnification of Officials and Employees.

The City Solicitor and/or other retained counsel shall undertake the representation or defense, without charge, of any City official, employee, including the Mayor and Council, the City Manager, committee members, advisory board members and all other employees, with respect to any claim or cause of action arising out of or related to the performance by said official or employee of his public duties, provided that such activities:

(1) were done in good faith; and

(2) were done in the reasonable belief that such activities were in the best interest of the City and in the furtherance of the official practices and policies of the City; and

(3) were within the scope of authority of the person so acting; and

(4) were within the course of employment of the person so acting; and

(5) were not willful, malicious or wanton, as determined by the City Solicitor, subject to the approval of the Mayor and Council.

Sec. 12-08. Transfer of Powers.

If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter, or if said Charter makes no provision, then as designated by the Council. All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue, except as modified pursuant to the provisions of this Charter, and in each case, shall be maintained, carried on, or dealt with by the City department, office or agency appropriate under this Charter and Charter amendments.

Sec. 12-09. Severability.

If any provision of this Charter and Charter amendments, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any provisions or applications of this Charter which can be given effect without the invalid provisions or applications, and to this end, the provisions of this Charter are declared to be severable.

Article XIII Initiative and Referendum

Sec. 13-01. General Authority.

A. Initiative. The qualified voters of the City shall have power to propose ordinances to the Mayor and Council and, if the Mayor and Council fail to adopt an ordinance so proposed without any change in substance, other than those changes recommended by the City Solicitor for reasons of legality, to adopt or reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

B. Referendum. The qualified voters of the City shall have power to require reconsideration by the Mayor and Council of any adopted ordinance and, if the Mayor and Council fail to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital plan or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

Sec. 13-02. Commencement of Proceedings; Petitioners' Committee; Affidavit.

Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed the City Secretary shall issue the appropriate petition blanks to the petitioners' committee.

Sec. 13-03. Petitions.

A. Number of Signatures. Initiative and Referendum petitions must be signed by qualified voters of the City equal in number to at least twenty-five percent (25%) of the total number of voters who voted at the last regular municipal election.

B. Form and Content. All papers of a petition shall be uniform in size and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have

attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

C. Affidavit of Circulator. Each paper of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

D. Time for Filing Referendum Petitions. Referendum petitions must be filed within thirty (30) days after adoption by the Mayor and Council of the ordinance sought to be reconsidered.

Sec. 13-04. Procedure After Filing.

A. Certificate of City Secretary; Amendment. Within twenty (20) days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Secretary within two (2) days after receiving the copy of his certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections B and C of Section 13-03, and within five (5) days after it is filed the City Secretary shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under subsection B of this Section within the time required, the City Secretary shall promptly present his certificate to the Mayor and Council and the certificate shall then be a final determination as to the sufficiency of the petition.

B. Mayor and Council Review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Mayor and Council. The Mayor and Council shall review the certificate at its next

meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as the sufficiency of the petition.

C. Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Sec. 13-05. Referendum Petitions; Suspension of Effect of Ordinance.

When a referendum petition is filed with the City Secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(1) There is a final determination of insufficiency of the petition, or

(2) The Petitioners' committee withdraws the petition, or

(3) The Mayor and Council repeal the ordinance, or

(4) Five (5) days have elapsed after a vote of the City on the ordinance.

Sec. 13-06. Action on Petitions.

A. Action by Mayor and Council. When an initiative or referendum petition has been finally determined sufficient, the Mayor and Council shall promptly consider the proposed initiative ordinance in the manner provided in Article IV or reconsider the referred ordinance by voting its repeal. If the Mayor and Council fail to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fail to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

B. Submission to Voters. The vote of the City on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one (1) year from the date of the final Mayor and Council vote thereon. If no regular City election is to be held within the period prescribed in this subsection, the Mayor and Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Mayor and Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

C. Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the City by filing, with the City Secretary a request for withdrawal signed by at least four (4) members of the

petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 13-07. Results of Election.

A. Initiative. If two-thirds of the qualified voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Mayor and Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

B. Referendum. If two-thirds of the qualified voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Article XIV Transitional Provisions

Sec. 14-01. Former Government in Force.

All ordinances, resolutions, orders, rules or regulations in force in the City of Delaware City, made or enacted by the Mayor and Council of Delaware City at the time this Charter takes effect,. regardless of the authority under which originally enacted, shall continue in full force and effect until the Mayor and Council otherwise provide by ordinance, resolution, order, rule or regulation whichever may be appropriate, notwithstanding any change in organization effected by this Charter.

All acts and doings of the "Mayor and Council of Delaware City", or any officer of said City, lawfully performed under the provisions of any Law of this State, or any ordinance of said City are hereby ratified and confirmed and continue in force. All debts, fines, penalties or forfeitures due said City, and all debts due from said City to any person or persons or to any corporation are declared to be unaffected and unimpaired, and all the Laws of this State for the collection and enforcement of taxes in said City, heretofore assessed and uncollected shall continue in full force until the same shall be lawfully paid.

Sec. 14-02. Continuance in Office.

All persons holding any non-elective office or employment with the Mayor and Council of Delaware City at the time this Charter takes effect shall continue in such office or employment and shall draw the same rate of compensation as during the month preceding the adoption of this Charter until removed or until the compensation is changed.

Sec. 14-03. Repeal of Prior Charters; Severability.

This Act shall operate to amend, revise and consolidate Chapter 209, Volume 57, Laws of Delaware and Chapter 588, Volume 58, Laws of Delaware, and the several amendments and supplements thereto, and to repeal such parts thereof only as may be inconsistent herewith. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in any way invalidate the remaining provisions of this Act." [1]

[1] 2013 Charter Adopted by M&C by Resolution 13-0318-01 on 3-18-13 and Signed by Governor on 7-15-13