

**PROPOSED CHARTER
THE TOWN OF TOWNSEND
New Castle County, Delaware**

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Table of Contents

ARTICLE I

INCORPORATION	4
Section 101. Incorporation	4
Section 102. Boundaries	4
Section 103. Annexation of Territory	4

ARTICLE II

POWERS OF THE TOWN	5
Section 201. Powers of the Town	5

ARTICLE III

COMPOSITION OF GOVERNMENT	5
Section 301. Composition of Government	5

ARTICLE IV

POWERS OF THE COMMISSION	6
Section 401. Ordinances	6
Section 402. File of Ordinances	6
Section 403. Emergency Ordinances	6
Section 404. Police Force	7

ARTICLE V

NOMINATIONS AND ELECTIONS	7
Section 501. Term of Office	7
Section 502. Elections	8
Section 503. Qualifications for Office	8
Section 504. Notice of Candidacy	8
Section 505. Voter Qualifications	8
Section 506. Voter Registration	8
Section 507. Vacancies in Office	8

ARTICLE VI

PERSONNEL	9
Section 601. Town Clerk	9
Section 602. Town Attorney	9
Section 603. Financial Officer	9
Section 604. Compensation of Employees	10

ARTICLE VII

FINANCIAL POWERS AND PROCEDURES 10
Section 701. Fiscal Year 10
Section 702. Budget 10
Section 703. Assessment of Taxes 10
Section 704. Power to Raise Revenue 11
Section 705. Special Assessments ????? 11
Section 706. Power to Borrow Money 11
Section 707. Annual Audit 11

ARTICLE VIII

GENERAL PROVISIONS 12
Section 801. Eminent Domain 12
Section 802. Indemnification 12
Section 803. Limitation on Liability 13
Section 804. Compendium 13
Section 805. Separability 13

ARTICLE IX

TRANSITIONAL PROVISIONS 14
Section 901. Former Government in Force 14
Section 902. Continuance in Office 14

ARTICLE I

INCORPORATION

Section 101. Incorporation

The inhabitants of the Town of Townsend, within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided, are hereby constituted and declared to be a body politic incorporated in law and equity, by the corporate name of "The Town of Townsend", and by that name shall have perpetual succession, and shall have all of the powers incident to or may attach to a municipal corporation as they, through their duly elected officers and agents, may deem proper, not in conflict with the provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, nor of the United States; and as such shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts.

Section 102. Boundaries

The boundaries of the Town of Townsend shall continue heretofore existing under the Charter of "The Town of Townsend" immediately prior to the enactment of this Charter.

The Commission of the Town of Townsend may at any time hereafter cause a survey and plot to be made of said Town and the said plot, when made and approved by the Commission, 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 the said record shall be in evidence in all courts of law in equity in this state.

Section 103. Annexation of Territory

The Town shall have the power to annex any additional territory contiguous to its present limits and lands, and extend and apply to such annexed territory all laws, ordinances and resolutions in force within the Town, so far as they may be applicable.

Additional territory contiguous to the Town may be annexed in the following manner:

(a) Upon presentation of a resolution adopted by a majority of the Town Commission, the Town shall conduct a special election in accordance with a procedure set forth in 22 Del. C. Section 501, except that there shall be no weighted voting and, instead, each qualified voter and each real estate owner will be entitled to one vote each.

(b) The Town is hereby authorized to adopt by ordinance such further policies and procedures as it deems necessary in order to effectuate the authority given herein.

ARTICLE II

POWERS OF THE TOWN

Section 201. Powers of the Town

The Town shall have all the powers possible for a town to have under the Constitution and Laws of Delaware as fully and completely as though they were specifically enumerated in this Charter.

The Town shall have the powers to make, adopt, and establish all such ordinances, regulations, rules and by-laws not contrary to the laws of the State of Delaware and the United States as the Town Council or Commission may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants.

The Town 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, including the government of New Castle County, or the United States or any agency thereof.

↓ State of Delaware

ARTICLE III

COMPOSITION OF GOVERNMENT

Section 301. Composition of Government

The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided therein, shall be vested in and exercised by a five (5) member Town Commission composed of a President and four (4) other members, each of whom shall be elected by popular vote as hereinafter provided. Each Town Commissioner shall serve a term which shall be for a period of two (2) years, and continuing until his or her successor is duly elected and qualified.

ARTICLE IV

POWERS OF THE COMMISSION

Section 401. Ordinances

The Town Commissioners are hereby vested with the authority to enact, adopt, amend and repeal ordinances and adopt resolutions relating to any subject within the powers or functions of a town, or relating to the government of a town, its peace and order, its sanitation, beauty, health, safety, convenience and comfort of its population, and the protection and preservation of property, and to fix, impose, and enforce payment of fines and penalties for the violation of such ordinances or resolution, and no provision of this Section as to ordinances or resolutions on any particular subject shall be held to be restrictive whether specifically enumerated or not.

The Town Commissioners shall not have the power to exempt any individual from the application of any ordinance, regulation, resolution, or rule of the Town, except as set out in this Charter or as provided by the United States Constitution or the laws of the State of Delaware.

Every ordinance shall be introduced in writing. No ordinance, except emergency ordinances, shall be passed at the meeting at which it is introduced. Upon introduction of an ordinance, a fair summary of said ordinance shall be published at least once in a newspaper or newspapers having general circulation in the municipality. Voting on any ordinance shall be by voice vote and the vote of each Town Commissioner on any ordinance shall be entered on the record. No ordinance shall be enacted, adopted, amended or repealed unless it shall have the affirmative vote of a majority of the entire Town Commission.

Section 402. File of Ordinances

It shall be the duty of the Town Commissioners at a reasonable time or times, to compile the ordinances, codes, orders and rules of the Town Commissioners. The Town Commissioners shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, codes, rules and regulations, or upon the enactment of amendments to the same, the Clerk of the Town Commissioners shall enroll the same in the journal of the Town Commissioners and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined.

Section 403. Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Town Commission may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Section 705 of this Charter.

An emergency ordinance shall be introduced in the form and manner 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. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it was introduced, but the majority vote of all Town Commission members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 120th day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this Section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this Section for the adoption of emergency ordinances.

Section 404. Police Force

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The Town Commissioners may appoint a police force consisting of such person or persons as the Town Commissioners may deem wise and advisable. The Town Commissioners shall from time to time adopt rules and regulations as may be necessary for the organization, government and control of the police force. The members of the force shall be subject to the direction of the Town Commissioners and may be removed by the Town Commissioners at any time. They shall preserve peace and order and shall compel obedience within the town limits to the ordinances of the town and the laws of the State; and they shall have such other duties as the Town Commissioners shall from time to time prescribe. Each member of the police force shall be vested with all powers and authority of a constable of New Castle County within the Town limits and within one mile outside such limits, and in the case of the pursuit of an offender, his power and authority shall extend to all parts of the State of Delaware.

ARTICLE V

NOMINATIONS AND ELECTIONS

Section 501. Term of Office

The term of office for each member of the Town Commission shall be two years. The President of the Commission shall be elected from within the Commission by a majority of the members of each newly elected Commission immediately following each annual municipal election, and shall serve in this capacity for one year until the next said election.

Two (2) Commissioners shall be elected on ~~odd~~ even years to fill the vacancies created by the expiration of the terms of Office of the two (2) then-outgoing Commissioners. Three (3) Commissioners shall be elected on ~~odd~~ even years to fill the vacancies created by the expiration

of the terms of Office of the three (3) then-outgoing Commissioners.

Section 502. Elections

Annual municipal elections for the Town Commission shall be held on the first Saturday in May at such time and place, within the Town, as shall be determined by the Town Commission. The Commission shall by ordinances set the hours during which the polls shall be open.

Section 503. Qualifications for Office

No person shall be eligible to hold office as a President or Commissioner except a person who at the time of filing as a candidate is a citizen of the United States, has attained the age of eighteen years, is a legal resident of the Town of Townsend, and has registered to run for elected office.

Section 504. Notice of Candidacy

In order to be listed on the ballot for election of Town Commissioner members, each candidate shall file a written notice of intention to seek such office with the Town Clerk at least thirty days (30) prior to the date set for the election. If the Town Commission determines that the candidate does not meet the qualifications of office, it shall reject the notice of intention to seek office and his or her name shall not appear on the ballot. In making the determination, only those members of the Town Commission who are not running for re-election shall be entitled to vote on the question.

Section 505. Voter Qualifications

Every person who shall have reached the age of eighteen years, who is a citizen of the United States, and who has resided within the Town limits for 30 days shall be entitled to vote at the annual municipal elections, special elections and referenda, except as otherwise provided in this Charter.

Section 506. Voter Registration

The Town Commission shall by ordinance provide for the registration of voters ^{and} may prescribe registration and voting places. Such ordinance shall not alter the qualifications of voters as defined in this Charter nor unduly impair the right to vote in any election.

Section 507. Vacancies in Office

If any vacancy shall occur in the office of the President by death, resignation, loss of residence in the Town of Townsend, refusal to serve, or otherwise, the remaining Commissioners shall appoint a President Pro Tempore from among themselves to fill such vacancy, and shall be

qualified as in the case of a new elected President and shall hold office for the remainder of the unexpired term.

If any vacancy shall occur in the office of Commissioner by death, resignation, loss of residence in the Town of Townsend, refusal to serve, or otherwise, the remaining Commissioners shall appoint an officer pro tempore, and shall be qualified as in the case of a newly elected Commissioner and shall hold office for the remainder of the unexpired term.

ARTICLE VI

PERSONNEL

Section 601. Town Clerk

The Town Clerk shall be appointed by the Town Commission. The Town Clerk shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. The Clerk shall keep a full and complete record of all the transactions in the Town of Townsend. The Clerk shall give notice of Commission meetings to its members and the public, record all the proceedings of Commission and keep a correct journal of the same in a book or books, to be provided for that purpose and also the papers relative and belonging to said Town, all of which are to be carefully preserved and delivered to the Clerk's successor in office. The Clerk's compensation shall be fixed by the Commission in accordance with Section 604 of this Charter.

Section 602. Town Attorney

The Town Attorney shall be appointed by the Town Commission. The Town Attorney shall be an officer of the Town and shall be a member of the Bar of the State of Delaware. It shall be the duty of the Town Attorney to give legal advice to the Town Commission, other officers of the Town and to all Town departments, offices and agencies. He shall represent the Town in all legal proceedings and shall perform such other legal services as may be required of said Attorney by the Town Commission, this Charter, by law or by ordinance. The Town Commission may procure such additional legal services as it may deem to be required.

Section 603. Financial Officer

The Town Financial Officer shall be appointed by the Town Commission. The financial powers of the Town, except as otherwise provided by this Charter, shall be exercised by the Financial Officer under the direct supervision of the Commission.

Under the supervision of the Commission, the Financial Officer shall have the authority and shall be required to:

(a) Supervise and be responsible for the disbursement of all Town monies and have control over all expenditures to assure that budget appropriations are not exceeded.

(b) Maintain a general accounting system for the Town in such form as the Commission may require, not contrary to State law.

(c) Submit at the end of each fiscal year, or at such other times as the Commission may require, a complete financial report to the Commission.

(d) Collect all taxes, special assessments, fees and other revenues of the Town, and all other revenues (including utility revenues) for whose collection the Town is responsible and receive any funds receivable by the Town.

Section 604. Compensation of Employees

The compensation of all employees of the Town of Townsend shall be set by the Commission in accordance with the budget process.

ARTICLE VII

FINANCIAL POWERS AND PROCEDURES

Section 701. Fiscal Year

The fiscal year of the Town of Townsend shall begin on the first day of July of each year and shall end on the last day of June of the following year. Such fiscal year shall also constitute the budget and accounting year, except as otherwise provided for herein.

Section 702. Budget

Is there a formal budget? When submitted and what should it contain?

May?

Section 703. Assessment of Taxes

The Town Commission shall use the assessment by the New Castle County Board of Assessment for all property located within the corporate limits of the Town in lieu of making its own independent valuation and assessment of such property. The assessed values established by New Castle County shall be conclusive for purposes of levying Town taxes, and the Town Commission shall have no authority to hear appeals regarding same.

Section 704. Power to Raise Revenue

The Town Commission shall have the power to levy and collect taxes on real property and of ownership within the limits of the Town, except that which is not assessable and taxable by virtue of any law of the State of Delaware, which shall not be more than the sum determined by applying the New Castle County tax rate to the total assessments appearing on the Assessor's duplicate, as hereinbefore provided, in any one year clear of all delinquencies and expenses of collection, without a referendum vote as hereinafter provided. The Commissioners shall have the right to grant or refuse, and to charge fees for licenses, and other businesses of any description within the limits of the Town, to control their use of any property within the Town. The Commissioners shall also have the power to levy and collect franchise fees.

The Town Commission shall have the power to levy and collect taxes on the transfer of ownership of any real property within the limits of the Town, except that which is not taxable by virtue of any law of the State of Delaware.

The Town Commission shall have the power by ordinance to allow discounts for early payment of taxes and for property owners **aged 65 or older** and to impose reasonable penalties and forfeitures for tax delinquencies. Nothing in this Charter shall be interpreted as giving the Commissioners the power to exempt from taxation any property, except property owned by the Town, County of New Castle, State of Delaware, or the United States.

The Town Commission shall have the power to fix the rates for general utility services operated by the Town and to collect and utilized revenues from such utility services for the benefit of the Town.

Section 705. Special Assessments ????

Does the Town have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property when determined by the Commission to provide a necessary public work or improvement or municipal service? Does it need to be approved by a majority of the Town voters in a special election? What is the procedure for special assessments and what is procedure for notice of hearing and special election?

Some one talked it over

Section 706. Power to Borrow Money

Does the town have this power? *Yes*

Section 707. Annual Audit

The financial books and accounts of the Town shall be audited annually as required by state law?

ACK

ARTICLE VIII

GENERAL PROVISIONS

Section 801. Eminent Domain

The Town Commission may, by condemnation proceedings, take private property or may exercise the right to use private property within the corporate limits of the town for any of the purposes authorized by this Charter. The proceedings for such condemnation shall be as prescribed in 10 Del. C. Chapter 61 or any future corresponding provision of law. The right of condemnation shall not extend to property owned by the United States, the State of Delaware or any agency thereof.

Section 802. Indemnification

The Town shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by appropriate insurance, any person who is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Town of Townsend itself) by reason of the fact that he or she is or was a member of the Town Commission, President or other duly elected or appointed Town official or employee of the Town of Townsend, or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonable believed to be in or not opposed to the best interest of the town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Town of Townsend and with respect to any criminal action or proceeding had reasonable cause to believe that his or her conduct was unlawful; provided, however, that in the event of a monetary settlement, the Town Commission shall first approve the amount and terms of the settlement before the right to indemnification shall vest.

Indemnification as provided in this section shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the members of the Town Commission, President and/or employees is proper in the circumstances because he or she met the applicable standards of the conduct set forth above. Such determination shall be made:

- (a) by a majority vote of a quorum of the Town Commission consisting of Commission members who are not parties to such action, suit or proceeding,
- or

(b) if such quorum is not obtained, by independent legal counsel in a written opinion.

Section 803. Limitation on Liability

No claim or cause of action shall arise, and no judgment, damages, penalties, costs or other money entitlement shall be awarded or assessed against the Town of Townsend, or any board, commission or agency of the Town, or any Town public officer, employee or member of such Town instrumentalities, whether elected or appointed, and whether now or previously serving as such, in any civil suit, or before any administrative tribunal on any and all tort claims seeking recovery of damages, unless made pursuant to Subchapter II, entitled 'County and Municipal Tort Claims', consisting of Sections 4010-4013, Title 10 of the Delaware Code or its successor.

Section 804. Compendium

It shall be the duty of the Town Commission to compile and reproduce the minutes of official meetings as well as ordinances, regulations, orders, rules or other decisions adopted by Town governmental bodies. The Town shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. Copies of such documents shall be made available to private persons at a reasonable cost. At least two copies of the Charter which shall have incorporated within it all amendments enacted by the General Assembly shall be kept at the Town office. Such copies may be typed, written, photographic processed or a combination of both. The President shall make such further copies of the Charter, from time to time, as may be necessary. Copies of the Town Charter shall be available ~~at the Town Hall~~ for the perusal of the Town citizens.

Section 805. Separability

If any section, sub-section, paragraph, sentence, clause or other provision of this Charter shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions, sections, sub-sections, paragraphs, sentences, clauses or other provisions of this Charter.

ARTICLE IX

TRANSITIONAL PROVISIONS

Section 901. Former Government in Force

All ordinances, resolutions, orders, rules or regulations in force in the Town of Townsend at the time when this Charter takes effect, regardless of the authority under which originally enacted, shall continue in full force and effect until the Commission otherwise provides by ordinance, except to the extent that any such ordinance, resolution, order, rule or regulation may be in contravention of this Charter.

Section 902. Continuance in Office

All employees of the Town of Townsend at the time this Charter goes into effect shall continue in such 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.

The President and Commission holding office on the effective date of this Charter shall continue as the President and Commission until their successors are elected and qualify pursuant to the first general election provided hereunder.