

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

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 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 limits and boundaries of The Town of Townsend in New Castle County, Delaware, shall be as previously fixed and established or hereafter altered according to law and shall be marked and defined according to maps and plots now of record or hereafter recorded in the Office of the Recorder of Deeds in and for New Castle County pursuant to lawful annexation proceedings. Such maps and plots, when so made and approved by Town Council, and when recorded in the Office of the Recorder of Deeds of the State of Delaware, in and for New Castle County, shall be deemed to be the true and correct maps and plots of the town and of all the streets, boundaries, lanes and alleys thereof, 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 the State of Delaware.

Section 103. Annexation of Territory.

103.1 General Requirements. The Town of Townsend shall have the power and authority to extend its boundaries by annexation of territory contiguous to its then existing town limits, 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. All annexations must be consistent with 22 Del. C, Section 101.

103.2 Procedures. The Town of Townsend may extend the boundary limits of the town so as to include any portion of adjoining or adjacent territory, under the following terms and conditions:

103.2.1 the annexation process under this section shall only be initiated by a written petition to annex territory submitted by the Mayor, or by member(s) of the Town Council, or by at least 25% of the qualified voters in the territory. The petition to annex, containing a general description of the territory, must be filed with the Town Clerk of The Town of Townsend.

103.2.2 upon the filing of a petition, the annexation must be approved in the following order: The Town Council must enact an ordinance approving the proposed annexation. The ordinance must provide a legal description of the territory, adopt the corresponding changes to the boundaries of the municipality and contain such other provisions as may be required by law. A majority of the qualified voters in each parcel of the territory, voting in a special election held by the proper election official, must approve of the annexation. Such special election shall be held not less than 30 days nor later than 60 days following the date of approval of the ordinance by the Town Council of The Town of Townsend. If the proper election official certifies that the results of the special election indicate that a majority of the qualified voters in each

parcel of the territory who voted in such election approved of the proposed annexation, the annexation shall become effective on the first day of the month immediately following such certification.

103.2.3 if the Town Council shall fail to enact the respective ordinances required under this section, or if the certification of the votes cast in the special election shall indicate that a majority of the qualified voters in each parcel of the territory who voted in such election were against the annexation of the territory, the proposed annexation of the territory shall be declared to have failed. Nothing in this section shall prohibit any interested party from resubmitting a petition for annexation of the territory, or any portion thereof, under the authority of and in accordance with this section.

103.2.4 if all of the property owners of the territory contiguous to the then existing corporate limits and territory of The Town of Townsend, by written Petition with the signature of each such Petitioner duly acknowledged, shall request the Town Council to annex that certain territory in which they own property, the Mayor of The Town of Townsend shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its finding and conclusions to the Mayor and Town Council. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Townsend and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Townsend may then pass a second Resolution annexing such territory to The Town of Townsend. Such Resolution shall be passed by a majority of the elected members of the Town Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the procedure to be following shall be the same as hereinafter provided as if the annexation were proposed by at least 25% of the property owners but less than all the property owners of a territory contiguous to the then limits and territory of The Town of Townsend.

103.2.5 notwithstanding any provisions being to the contrary, the town, by resolution of Council, may extend its corporate boundaries without an election, provided that the said territory to be annexed is owned by the town.

103.2.6 the following definitions shall apply to this section:

- a. "Adjacent" means to lie upon or touch the boundary of the Town of Townsend.
- b. "Adjoining," in addition to its general meaning, shall also mean to lie upon or touch a highway, railroad right-of-way, or watercourse which lies upon the boundary line of the Town of Townsend and separates the town and the territory by only the width of such highway, railroad right-of-way or watercourse. If more than 1 highway and/or railroad right-of-way and/or watercourse, or any combination of the same, separates the town and the territory, and such highways and/or railroad rights-of-way and/or watercourses lie upon or touch each other, then the town and the territory shall be deemed adjoining.
- c. "Parcel" shall mean the property in the territory to which is assigned a separate tax parcel number on the books and records of the New Castle County Board of Assessment.
- d. "Qualified voter":
 - i. Every person 18 years of age or older who at least 30 days prior to the date of the special election is a duly registered voter in the election district or districts of New Castle County, DE, and who resides in said territory, shall be entitled to 1 vote each.
 - ii. Unless already qualified to vote under paragraph (i) of this subsection and subject to paragraph (vii) of this subsection, each owner of a parcel of real estate located in the territory, as evidenced by the assessment records of New Castle County, shall be entitled to 1 vote each. Corporations, limited partnerships or other entities which own real estate

- in the territory shall be entitled to 1 vote each under this subsection, which right to vote shall be permitted by the judge of the election at the special election upon receipt of a sealed, certified copy of a corporate resolution passed by the governing body of the corporation, or the equivalent of such resolution of the entity involved, authorizing an officer, agent or other person to vote on behalf of the entity at the special election.
- iii. Unless already qualified to vote under paragraph (i) or (ii) of this subsection, each holder of a then-current leasehold interest in a parcel in the territory, as evidenced by a certified copy of the lease reflecting that interest submitted to the judge of the election at the time of the special election, shall be entitled to 1 vote each, which shall be permitted in the same fashion as if carried out under the provisions of paragraph (i) or (ii) of this subsection, as the case may be.
 - iv. Unless already qualified to vote under paragraph (i) or (ii) of this subsection, each person, corporation, limited partnership or other entity, who in the determination of the Town is qualified to vote under the provisions of paragraph (vii) of this subsection, shall be entitled to 1 vote each, which shall be permitted in the same fashion as if carried out under the provisions of paragraph (i) or (ii) of this subsection, as the case may be.
 - v. In no event shall any person, corporation, limited partnership or other entity, or any holder of a leasehold interest, who or which is qualified to vote under this section, be entitled to more than 1 vote in such special election.
 - vi. Not less than 14 days prior to the special election, the Town Clerk of the Town of Townsend shall prepare from the books and records of the county Board of Assessment a list of the real estate owners of each parcel of the territory for which the special election is to be held. In addition, not less than 21 days prior to the special election the Department of Elections for New Castle County shall provide the Town Clerk with a current list of registered voters in the election district or districts in which the territory is located, who reside in the territory. From the 2 lists prepared pursuant to this subsection the Town Clerk shall compile the voting list of the qualified voters for the special election. The voting list shall be evidence of the right of qualified voters to vote in the special election, except as hereinafter provided:
 - vii. Real estate owners who sold their property or properties in the territory prior to the date of the special election shall not be permitted to vote but the then owners of the property or properties shall be entitled to vote in their place and stead upon furnishing the judge of the election with the original or a certified copy of the deed to the property or properties, which deed shall clearly evidence that it was duly recorded; provided, however, that if the new owner is a corporation, limited partnership or other entity, the new owner must also comply with the provisions of subsection (d)(ii) of this section;
 - viii. Any person claiming the right to vote at the election as an heir of any real estate owner in the territory who has died since the preparation of the voting list, or as trustee or guardian under the terms of the last will and testament of such real estate owner (who has died since the preparation of the voting list) shall furnish the judge of election with the original or a certified copy of the will or other document evidencing his or her ownership of, or interest in, the property of such real estate owner, and shall thereupon be permitted to vote as if qualified under subsection (d)(ii) of this section; or
 - e. "Territory" shall mean the property or properties proposed to be annexed to the Town of Townsend.

ARTICLE II -- Powers of the Town

Section 201. Powers of the Town

201.1 General. The Town of Townsend shall have all powers possible for a town to have under the Constitution and Laws of the State 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, resolutions, regulations, rules and by-laws not contrary to the laws of the State of Delaware and the United States as the Town Council 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 person and property, and 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, other municipalities, the State of Delaware, the United States, or any agency thereof.

201.2 Enumeration of Powers. Not by way of limitation upon the scope of the powers vested in the Town Council to exercise all powers delegated by this Charter to the town (except as may expressly appear herein to the contrary), but rather by way of enumeration and for purposes of clarity, the Town Council is vested by this Charter with the following powers, that is to say the Town Council:

201.2.1 may have and use a corporate seal, which may be altered, changed, or renewed at any time.

201.2.2 may hold and acquire by gift, negotiation and purchase, devise, lease, or condemnation property both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the town, in fee simple or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to providing sites for construction, improving, extending, altering or demolishing:

- a. public buildings;
- b. parks;
- c. streets, squares, lanes, alleys;
- d. sewer systems, including but not limited to sewage lines, conduits, sewage disposal or treatment plants, and all appurtenances thereto;
- e. water systems, including but not limited to water plants, well lines, conduits and all appurtenances thereto;
- f. recreational facilities, including but not limited to gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddle courts and all appurtenances thereto;
- g. adequate municipal services for persons and other legal entities residing either within or beyond the corporate limits of the town, to their mutual benefit and advantage, upon such terms, charges, and conditions as the Town Council may determine and approve;
- h. slum clearance and redevelopment, urban renewal, revitalization or rehabilitation of blighted areas or removal of dangerous buildings;
- i. protection services for the citizens of the town to include, but not limited to, police, fire, rescue, and paramedic support.

201.2.3 may sell, grant, alienate, lease, mortgage, manage, hold and control such property as the interests of the town may acquire except as prohibited by the Constitution or Laws of the State of Delaware or as restricted by this Charter;

201.2.4 may pay for the acquisition, construction, improvement, repair, extension, alteration or demolition of any town property (real, personal or mixed) from the general fund of the town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which lands and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the town by any governmental entity of the United States and/or the State of Delaware and/or New Castle County where the proceeds of the grant or loan are for the purposes for which lands and premises are authorized by this Charter to be acquired:

201.2.5 may acquire, build, erect, and maintain buildings and facilities necessary or required for housing and equipping the offices of the town;

201.2.6 may purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, trash collection fee, charge growing out of abatement of nuisances, or other charge due to the town and sell the same;

201.2.7 may;

- a. ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, improve, dredge, erect, remove, repair and replace any new or present street, drain, gutter, aqueduct or pipeline or portion thereof, or any new or present curb, or gutter or portion thereof, in the town and the strand in or contiguous to the town;
- b. specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done;
- c. enter into contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, highway, road, alley, sidewalk or other public thoroughfare within the town;

201.2.8 may provide, construct, extend, maintain, manage and control bulkheads, embankments, rip rap, piers or fills for the preservation of any waterway, stand or high land within the corporate limits of the town and contiguous thereto to the end that the same may be preserved and properly protected that the general public might enjoy the use thereof;

201.2.9 may regulate and control the planting, growing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and lands of the town and may authorize or prohibit the removal or destruction of said trees;

201.2.10 may fully control the drainage of all surface water within the town, and to that end, may provide, construct, extend, maintain, manage and control a surface water drainage system for the health, sanitation, and convenience of the inhabitants of the town;

201.2.11 may provide an adequate supply of potable water for the town and its inhabitants and, to this end, may: acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, water treatment facilities, stations, tanks, standpipes, water mains, fire hydrants, and all other equipment, property, or rights used in or about the collection, storage, purification, conveyance or distribution or sale of water; regulate and prescribe for what public or private purposes the water furnished by the town may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury, or damage to or interference with the water system or the equipment of the town; furnish or refuse water from the town system to places and properties outside the town corporate limits; and contract for and purchase water and distribute the same to users within or without the town with the same full powers as though such water had been initially reduced to usefulness by the town itself;

201.2.12 may: provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the town; regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts which shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plant or facilities; furnish or refuse to furnish sewer disposal service from the town system to places and properties outside the town limits; compel any and all properties in the town to be connected to the sewer system of the town.

201.2.13 may provide for the control of the lighting of streets, highways, roads, alley, waterways, parks, strands, crosswalks, wharfs, docks, public buildings or other public places in the town;

201.2.14 may regulate, control or prevent the use or storage of all combustible or dangerous materials and the use of candles, lamps and other lights in stores, shops and other places; and may regulate, suppress, remove or secure any fireplaces, stove chimney, oven broiler or other apparatus which may pose a danger of causing fires;

201.2.15 may; provide for the organization of a fire department and the control and government thereof; establish fire limits and do all things necessary for the prevention or extinguishment of fires; and contribute or donate funds to any volunteer fire company or companies incorporated under the Laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire association or associations maintaining and operating fire fighting equipment and service to the town, provide that any such contribution or donation may be made subject to such conditions as to the use thereof as the Town Council may deem advisable;

201.2.16 may provide for the organization of ambulance, rescue or paramedic services and the control and government thereof, may establish territories within the town for such services; and may at the discretion of the Town Council, contribute or donate funds to any such service formed or incorporated under the Laws of the State of Delaware, or to any volunteer service maintaining and operating ambulance, rescue or paramedic equipment or services for the inhabitants of the town, provided that any such contribution or donation may be made subject to such conditions to the use thereof as the Town Council may deem advisable;

201.2.17 may prohibit drunkenness, use or distribution of controlled substance, gaming and fraudulent devices and riots, disturbances and disorderly assemblies;

201.2.18 may adopt and enforce such ordinances regulating traffic on all streets, highways, roads, alleys, and public ways within the town as are consistent with the motor vehicle laws of the State of Delaware

201.2.19 may regulate or prohibit the use of streets, highways, roads, alleys, parks, rights-of-way, other public places and town-owned lands for commercial use, or activities not otherwise protected from such regulation or prohibition by the Constitution or Laws of either the United States or the State of Delaware;

201.2.20 may regulate or prohibit the use of guns, air guns, spring guns, pistols, slingshots, bean shooters, and any other device for discharging missiles that may cause bodily injury or injuries or harm to person or property; and may regulate the use of bonfires, fireworks, bombs and detonating works of all kinds within the town;

201.2.21 may provide for and preserve the health, peace, safety, cleanliness, beauty, good order and public welfare of the town;

201.2.22 may prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;

201.2.23 may direct the excavation, draining, filling, cleaning, curbing or fencing of privately owned lots, tracts, pieces or parcels of land in the town which are deemed dangerous or unwholesome, or necessary to carry out any improvements authorized by this Charter and may assess the cost thereof against the owner thereof;

201.2.24 may define, prevent, abate or remove nuisances, obstructions or any other conditions detrimental to the public safety, health or welfare; and may cause the cost of such abatement or removal to be paid by the person or other legal entity causing or permitting same to exist;

201.2.25 may adopt ordinances providing for condemnations of any building or structure in the town which is determined, on the basis of standards set forth in such ordinances to be a fire hazard or otherwise unsafe, and may cause the same to be torn down or removed;

201.2.26 may adopt ordinances to establish and regulate animal pounds and restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large within the corporate limits of the town; authorized the destruction of the same; and may regulate the keeping of dogs within the town, and provide for registration and fees thereof;

201.2.27 may provide for the punishment of a violation of any ordinance of the town by appropriate fine, penalty, or forfeiture;

201.2.28 may regulate and control the construction, alteration, or removal of dwellings or other structures and provide for granting permits for same;

201.2.29 may regulate and control construction activities by private individuals or companies at such times and seasons of the year and at such hour of the day as the Town Council may determine necessary and appropriate for the public health, welfare and convenience;

201.2.30 may provide for and regulate the naming of the streets and the numbering of houses and commercial establishments within the town corporate limits;

201.2.31 may establish setback lines for buildings and other structures to be erected; zone or district the town and make provision for particular zones or districts with regard to construction or building materials; prohibit any construction except that for which a building permit has been issued as prescribed by the Town Council; and exercise all powers and authorities pursuant to 22 Del. C., Chapter 3, or any future corresponding provisions of law;

201.2.32 may regulate the conduct of any business, profession or occupation within the corporate limits of the town;

201.2.33 may license, tax, and collect fees annually for any and all municipal purposes of such various amounts as the Town Council, from time to time, shall fix from any individual, firm, association or corporation carrying on, or practicing any business, profession or occupation within the limits of the town;

201.2.34 may grant licenses, issue permits, and regulate any activity within the corporate limits of the town, whether previously dedicated to or owned by the State of Delaware;

201.2.35 may impose upon new development or construction or upon first-time occupancy of new construction such "impact fees" as are reasonable calculated to recover the cost of installing, enlarging, improving or expanding public or municipal improvements which have a rational nexus to such new construction; may appropriate money to pay the debts and liabilities of the town, or any portion thereof, from any funds available therefore; and may, in case of emergency, temporarily transfer money from one fiscal account to another fiscal account of the town;

201.2.36 may appropriate money to pay the debts and liabilities of the town or any portion thereof, from any funds available therefore; and may, in case of emergency, temporarily transfer money from one fiscal account to another fiscal account of the town;

201.2.37 may raise revenue for the town by the levying and collection of taxes on real property, taxes on the transfer or sale of real property, taxes on business activities, special assessments, licensing fees and other charges for services;

201.2.38 may investigate the conduct of any officer, employee or representative of the town, in the conduct of official duties, and for such purpose may compel the attendance of witnesses and the production of books, records, or other evidence by subpoena, and may administer oaths or affirmations;

201.2.39 may establish a pension plan or a health and welfare plan or both, for the employees of the town under such terms and conditions as the Town Council may deem appropriate, with the funding accomplished through an insurance company licensed by and authorized to do business in the State of Delaware, approved by the Town Council.

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 the five (5) member Town Council composed of a Mayor and four (4) other members, each of whom shall be elected by popular vote as hereinafter provided. Each Town Councilperson shall serve a term, which shall be for a period of two (2) years.

ARTICLE IV -- Powers of The Commission

Section 401. Ordinances.

The Town Council is 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 Council shall not have the power to exempt any individual from the application of any ordinances, 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 member of Council 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 Council-3 affirmative votes.

Section 402. Meetings.

The Town Council of The Town of Townsend shall hold one (1) meeting in each month on the first Wednesday of each month at seven-thirty p.m. If the first Wednesday shall be a legal holiday, the meeting shall be cancelled and the next meeting shall be held on the second Wednesday of the month. Council shall not hereby be prohibited from rescheduling such meetings from time to time during the year as the need arises. Emergency meetings may be held when necessary for the immediate preservation of public health

and safety. Notice of all meetings shall be consistent with Title 29, Chapter 100 of the Delaware Code as amended from time to time.

Section 403. Quorum.

A majority of the members elected to the Town Council, excluding the Mayor, shall constitute a quorum at any regular or special meeting; but a lesser number may convene from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by Ordinance.

Section 404. File of Ordinances.

It shall be the duty of the Town Council at a reasonable time or times, to compile the ordinances, codes, orders and rules of the Town Council. The Town Council 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 Council shall enroll the same in the journal of the Town Council and shall keep copies of the same in a book to be provided for the purpose so that the same may be readily examined.

Section 405. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Town Council 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 707 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 Council 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 406. Powers of the Mayor.

It shall be the duty of the Mayor to preside at all meetings of the Town Council, to serve as the head of the town government for all ceremonial purposes or for purposes of military law; to appoint such standing or ad hoc committees as he or she deems necessary or appropriate, such appointments to be subject to council confirmation, and to perform such other duties as may be prescribed by any ordinance or resolution adopted by the Town Council. He or she shall issue and sign all licenses for every exhibition with The Town of Townsend for which a license thereof is, or may be required.

The Mayor shall have no vote on any matter except in case of a tie. For purposes of establishing a quorum, the Mayor shall not be counted. The Mayor may at any time appoint another officer or Council member to preside if he or she desires to make a motion, move the adoption of a resolution, record either, or debate any question from the floor, and may thereafter immediately resume his or her duties as presiding officer.

The Mayor, in concurrence with another Council member, shall be authorized to act on behalf of the town, without prior Council approval, in the event of some sudden emergency requiring immediate action in order to protect the public health, safety, and welfare of the town, its residents and property owners.

The Mayor, or the Mayor's designee, shall have the power to conduct negotiations with any one or more states or civil divisions or agencies thereof, including the government of New Castle County, other municipalities, the State of Delaware, the United States, or any agency thereof. He or she may also have the authority to sign town contracts after approval of the Town Council, which shall be attested to by the Town Council or the Town Clerk's designee.

In the event that the Mayor becomes disqualified from holding office by reason of resignation, death, removal from the town, conviction of a felony, or malfeasance in office, the Town Council may appoint a Mayor Pro Tempore to succeed to the office of the Mayor for the balance of the unexpired term. The succession of the Mayor Pro Tempore to the office of the Mayor shall create a vacancy in the Council. The Mayor shall serve as the head of the town government for all ceremonial purposes. He or she shall enjoy all powers afforded to Town Council by virtue of this Charter. In addition, the Mayor shall have the authority to sign town contracts after approval of the Town Council, which will be attested to by the Town Clerk or a designated delegate of the Town.

ARTICLE V -- Nominations & Elections

Section 501. Term of Office.

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

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

Section 502. Elections.

Annual municipal elections for the Town Council shall be held on the first Saturday in May at such time and place, within the town, as shall determine annual municipal elections. The Council shall by ordinances set the hours during which the polls shall be open, which shall be no less than six hours at each polling place. The Town Clerk shall be responsible for the proper administration and facilitation of municipal elections as described here and in Section 506 of the Town Charter. In the event of a tie vote for any office, the Town Clerk shall determine the winning candidate by lot. The Town Council shall have the power to declare no election in the event that only one candidate is available for each election position within the town.

Section 503. Qualifications for Office.

No person shall be eligible to hold office as Mayor or Councilperson 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, has maintained legal residency within the Town boundaries for a minimum of twelve (12) consecutive months immediately preceding the filing of candidacy, and has registered to run for election office. Each person seeking to hold office must first obtain the signatures of ten registered voters within the Town of Townsend in the form of a petition and file such petition with the election official for the Town no later than thirty (30) days immediately preceding the election. *(75 Laws of Delaware c. 347 (6/30/06))*

Section 504. Notice of Candidacy.

In order to be listed on the ballot for election of Town Council 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 Council 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 Council 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 ninety (90) consecutive days immediately preceding the election and/or who has been a legal owner of property within the corporate limits of The Town of Townsend for ninety (90) consecutive days immediately preceding the election shall be entitled to vote at the annual municipal election, special elections and referenda, except as otherwise provided in this Charter.

Section 506. Absentee Voting.

The Town Council of The Town of Townsend, may by ordinance, establish a procedure for absentee voting consistent with the provisions of Title 15, Chapter 22 of the Delaware Code.

Section 507. Voter Registration.

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

Section 508. Vacancies in Office.

If any vacancy shall occur in the office of the Mayor by death, resignation, loss of residence in The Town of Townsend, refusal to serve, or otherwise, the remaining Councilpersons shall appoint a Mayor Pro Tempore from among themselves to fill such vacancy, who shall be qualified as in the case of a newly elected Mayor and shall hold office for the remainder of the unexpired term. If any vacancy shall occur in the office of Councilperson by death, resignation, loss of residence in The Town of Townsend, refusal to serve, or otherwise, the remaining members of Council shall appoint an officer pro tempore, who shall be qualified as in the case of a newly elected Councilperson and shall hold office for the remainder of the unexpired term.

ARTICLE VI -- Personnel

Section 601. Town Employees.

The Town Council may provide for the appointment or hiring of such other officers, employees and agents of the town, which it may deem proper and necessary, for the proper conduct and management of the town. Unless governed by the terms of a written contract, a written personnel policy, a written personnel classification or merit system, or a written grievance or disciplinary procedure duly adopted by the Town Council, any such officers, employees and agents of the town, may be removed at any time, with or without cause, by the Town Council at the pleasure of the Town Council.

Section 602. Compensation of Town Employees.

The Town Council shall, by ordinance, budget or resolution, fix the amount of any salaries or compensation for the employees, officers and agents of the town, provided that the Mayor and Town Council members shall not be included under this subsection. No officer, employee or agent of the town shall in any form

have, take, or receive from the town any compensation, in addition to the salary or compensation fixed by the Town Council, except for reimbursement for actual and necessary expenses incurred by them in the performance of their duties, if such reimbursement be authorized and approved by motion, resolution or order of Council.

The Town Council shall cause to be kept a full and complete record of all officers appointed, and employees and agents hired by the town, containing the names of such officers, employees and agents, the dates of their employment, any salary or compensation to be by them received, the date of the termination of their services, and any other relevant personnel employment information.

Section 603. Town Clerk.

The Town Clerk shall be appointed by the Town Council. The Town Clerk shall have the power to certify town documents including, but not limited to, the town map, ordinances, resolutions, regulations, amendments, contracts, planning documents, rules and by-laws. The Town Clerk shall have charge and custody of the Town Seal. 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. It shall be the duty of the Town Clerk to ensure proper administration and facilitation of municipal elections. The Clerk shall give notice of Council meetings to its members and the public, record all the proceedings of Council 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 The Town of Townsend, all of which are to be carefully preserved and delivered to the Clerk's successor in office.

Section 604. Town Attorney.

The Town Attorney shall be appointed by the Town Council. 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 Council, other officers of the town and to all town departments, including the police department, town offices and agencies. He shall represent the town in all legal proceeding and shall perform such other legal services as may be required of said Attorney by the Town Council, this Charter, by law or by ordinance. The Town Council may procure such additional legal services as it may deem to be required.

Section 605. Financial Officer.

The Town Financial Officer shall be appointed by the Town Council. 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 Council.

Under the supervision of the Council, 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 Council may require, not contrary to State Law.
- c. Submit at the end of each fiscal year, or at such other times as the Council may require, a complete financial report to the Council.
- 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. The Financial Officer shall have the power to delegate the ability to collect the aforementioned revenue sources upon a simple majority approval of the Town Council.
- e. Assist the Town Council in making an annual budget no later than thirty (30) days after the beginning of each fiscal year.

Section 606. Town Engineer.

The Town Engineer shall be appointed by the Town Council. He or she shall be an officer of the town and be professionally licensed within the State of Delaware. The duties of the Town Engineer shall include, but not be limited to, representing the town on all engineering matters, reviewing all plans and building permit applications for construction that occurs within the town limits, serving as the design engineer for all capital projects, and providing all construction inspection services for the town. The Town Council may procure any additional engineering services as they see fit.

Section 607. Police Force.

The Town Council may appoint a police force consisting of such person or persons, as the Town Council deems wise and advisable. The Town Council 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 and supervision of a police officer of the Town who shall have the title of Chief of Police.

The police force 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 Council 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 or her power and authority shall extend to all parts of the State of Delaware.

ARTICLE VII -- Financial Powers & 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.

The Town Council shall prepare and submit a formal budget to said Council for purposes of listing revenues and expenditures of the town. It shall be submitted by the Town Council, assisted by the financial officer no later than thirty (30) days after the beginning of each fiscal year. In the event of a lack of compromise within the Town Council regarding the immediate annual budget, the Town Council shall have the authority to pass enabling legislation to extend the previous year's budget until a compromise or settlement can be reached by the members of the Town Council.

Section 703. Assessment of Taxes.

The Town Council shall use the assessment by the New Castle County Board of Assessment for all property 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 Town Council shall have no authority to hear appeals regarding the same.

Section 704. Power to Raise Revenue.

The Town Council 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 Town of Townsend's tax rate to the New Castle County 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 Council shall have the right to grant or refuse, and to charge fees for licenses, on any businesses of any description within the limits of the town, and to control their use of any property within the town. The Council shall also have the power to levy and collect franchise fees.

The Town Council 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 Council shall have the power by ordinances 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 Councilpersons 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 Council 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 the town.

Section 705. Remedies for Collection of Taxes, Assessments and Other Charges.

Before exercising any of the powers hereinafter given for the collection of taxes, assessments and other charges, the Financial Officer shall send notice of the amount due to the taxable at his or her last known address.

The Financial Officer, when any tax, assessment or other charge has become delinquent, may, in the name of the Town of Townsend, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for New Castle County, or in the Superior Court of the State of Delaware, in and for New Castle County, for the recovery of the unpaid tax, assessment or charge in an action of debt, and upon judgment obtained, may swear out writs of execution as in the case of other judgments recovered before a Justice of the Peace Court or in the Court of Common Pleas, or in the Superior Court as the case may be, provided however that, as to any personal property of the taxable or assessee in New Castle County levied upon by the Sheriff within 60 days after the writ of execution was delivered into his or her hands, the lien of judgment shall have priority over all other liens against such personal property created or suffered by the delinquent, (excepting only the liens of the Federal, State or New Castle County government), although such other liens be of date prior to the time of the attachment of the said tax liens to the personal property so levied upon.

Should the Council so elect, and without necessity of employing any or all of the other remedies provided herein, the Financial Officer is authorized and empowered to sell the lands and tenements of a delinquent or the lands and tenements alienated by a delinquent subsequent to the levy of the tax, assessment or other charge by the following procedure:

- a. The Financial Officer shall present in the name of the Town of Townsend to the Superior Court of the State of Delaware in and for New Castle County, a petition in which shall be stated:
 - i. the name of the taxable or assessee;
 - ii. the year for which the tax, assessment or other charge was levied, assessed, or charged;
 - iii. the rate of tax, assessment, or other charge;
 - iv. the total amount due;
 - v. the date from which the penalty for nonpayment, if any, shall commence and the rate of such penalty and any collection charge permitted;
 - vi. a short description of the lands and tenements proposed to be sold, sufficient to reasonably identify same;

- vii. a statement that the bill of said tax, assessment or other charge has been mailed to the taxable or assessee at his or her last known post office address with return receipt requested by certified mail and postage prepaid, together with a notice that the Financial Officer would proceed to sell the lands and tenements of the taxable for payment of the tax, assessment or other charge due the Town; and the date of such mailing;
 - viii. The petition shall be signed by the Financial Officer and shall be verified before a Notary Public.
- b. At least ten (10) days prior to the filing of any such petition as described herein, the Financial Officer shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable or assessee at his or her last known address requiring a registered receipt returnable, an itemized statement of the tax, assessment or other charge due, together with all penalties, collection charges, and costs then due thereon, together with a notice to the delinquent that he or she shall proceed to sell the lands and tenements for the payment of the tax, assessment or other charge. The Financial Officer shall exhibit the return registry receipt to the Court by filing the same with the petition; provided, however, that if the delinquent cannot be found, or if delivery is refused, it shall be sufficient for the Financial Officer to file with said petition the evidence that such statement has been mailed in accordance with this subsection and has been returned.
- c. Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court, in and for New Castle County, and shall endorse upon the said record of said petition the following: This petition, filed the ___ day of ___, A.D. ___, (giving year and date), and the Financial Officer of the Town of Townsend is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount. This endorsement shall be signed by the Prothonotary. Any sales of lands and tenements of a delinquent shall be advertised in five (5) public places in the Town of Townsend, one of said public places shall be the Town Office and one of which shall be on the premises and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town of Townsend. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least fifteen (15) days before the day fixed for the sale and the newspaper advertisement shall be published at least fifteen (15) days before the day of the sale.

Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for New Castle County at the next Motion Day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be set aside, the Superior Court may order another sale and so on until the tax, assessment or other charge be collected. No sale shall be approved by the Superior Court if the owner be ready at court to pay the taxes, assessments or other charges as well as all penalties, collection fees and costs.

If the sale be approved, the Financial Officer making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent or his alienee; provided however, that no deed shall be delivered to the purchaser until the expiration of one (1) year from the date of the sale within which time the delinquent or his alienee, heirs, executors, administrators or assigns, shall have the power to redeem the lands on payment to the purchaser, his personal representatives or assigns, the costs, the amount of the purchase price, plus twenty percent (20%) and the expense of having the deed prepared. All taxes assessed after the sale and before the delivery of the deed shall be paid by the purchaser at said sale who shall be reimbursed by the delinquent in the event of redemption to which shall be added twenty percent (20%) thereon.

In the event the purchaser refuses to accept the same, or in the event he, or his or her heirs or assigns, cannot be located within the State of Delaware, it shall be lawful for the owner, his or her heirs, executors, administrator or assigns, to pay the redemption money to the Financial Officer of Townsend and upon obtaining from him or her a receipt therefore, such receipt shall be considered for all intents and purposes a valid and lawful exercise of the power to redeem the said lands. In the event the lands have not been redeemed within the redemption year, the Financial Officer shall deliver to the purchaser, his heirs, executors, administrator, or assigns, a deed which shall convey

the title of the taxable or assessee. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

After satisfying the tax, assessment, or other charge due and the costs and expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land. If he shall refuse to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank either to the credit of the owner or in a manner in which the fund may be identified.

In the sale of lands for the payment of delinquent taxes, assessments, or other charges the following costs shall be allowed to be deducted from the proceeds of the sale or chargeable against the owner, as the case may be, in the amount customarily charged:

- a. the Prothonotary for filing and recording the petition.
- b. filing and recording the return of sale.
- c. the Financial Officer for:
 - i. preparing the Certificate.
 - ii. making the sale of lands,
 - iii. preparing and filing a return,
 - iv. posting sale bills, and
 - v. legal fees.

In addition, the costs of printing handbills, the publication of the advertisement of sale in a newspaper, and the auctioneer's fee, if any, shall be chargeable as costs. The costs of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent. The total of any Delaware transfer tax shall be paid by the purchaser of said lands at the tax sale.

If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale and in the Petition to the court.

If any person is assessed for several parcels of land and tenement, in, the same assessment in the Town of Townsend, the total of said taxes, assessments, or other charges may be collected from the sale of any part or portion of said lands and tenements.

In the event of death, resignation or removal from office of the Financial Officer of the Town of Townsend before the proceedings for the sale of lands shall have been completed, his successor in office shall succeed to all of his or her powers, rights, and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to his or her receiving a deed for the property purchased thereat, the person having right under him or her by consent, devise, assignment, or otherwise, may refer to the Superior Court of the State of Delaware, in and for New Castle County, a petition representing the facts and praying for an order authorizing and requiring the Financial Officer to execute and acknowledge a deed conveying to the petitioner the premises so sold, and thereupon the court may make such order regarding the conveyance of the premises as shall be according to justice and equity. The Financial Officer shall have the same right to require the aid or assistance of any person or persons in the performance of his duty of sale, which the Sheriff of New Castle County now has by law or may hereafter have.

Section 706. Special Assessments.

The Town Council is empowered to levy a special assessment against any or all real property situated within the corporate limits of the town, when determined by the Council to provide a necessary public work improvement or municipal service. Such assessments shall be duly collected, the proceeds of which shall be applied for the payments of the cost of such work, improvement, or service, provided, however, that if such assessment shall apply to all properties

within the town, it shall be approved by majority vote of the town's voters in a special election. If such assessment shall apply to only a portion of property situated within the corporate limits of the Town, the assessment shall be approved by a majority of the Town voters in the affected area in a special election.

Section 707. Borrowing Powers.

707.1 Short-Term Borrowing, Voter Approval Not Required. Whenever the needs of the town shall require more money than is, at the time, in the town treasury from current receipts, the Council shall be authorized and empowered to anticipate current revenue by borrowing such amounts as are needed. Provided, however, the amount of such indebtedness shall not at any time exceed one (1%) percent of the assessed valuation of the assessable and taxable real property within the limits of the town, or shall not exceed Two Hundred Thousand Dollars (\$200,000.00), whichever is greater. To exercise the power aforesaid the Council shall adopt a resolution to that effect, which resolution shall be by roll call and require the affirmative vote of at least three (3) of the members of the Council. The indebtedness created under this provision shall be evidenced by notes of the town, and the full faith and credit of the town shall be deemed to be pledged thereby. Such short-term debt shall not be considered as part of the bonded debt of the town when limitations under indebtedness, as set forth elsewhere in this Charter, are computed.

707.2 Long-Term Borrowing, Voter Approval Required. In addition to other borrowing powers granted to the Town under this Charter or by State law, the Town Commission shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or other security or securities as the Town Commission shall elect, for the payment of principal thereof and interest due thereon.

707.2.1 Proper Municipal Purpose. By way of illustration and not in limitation, "any proper municipal purpose" includes, but is not limited to: refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein; erecting, extending, enlarging, maintaining or repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of water, sewerage or drainage system, or any of them, and the condemning or purchasing of any land, easements, and rights-of-way which may be required therefore; constructing, paving, laying out, a widening, extending, repairing and maintaining of curbing and gutters, including storm sewers along the same and the condemning or purchasing of lands, easements or rights-of-way which may be required therefore; constructing, laying out, widening, extending, repairing and maintaining piers, bulkheads, cross walks, embankments, and the condemning or purchasing of any lands, easements, or rights-of-way which may be required therefore; defraying the costs to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter; and paying all expenses deemed necessary by the Town Commission for the issuance of said bonds or other evidence of indebtedness, including bond discount and legal expenses of bond council.

707.2.2 Exempt from Taxation. All bonds or other kinds or forms of evidence or evidences of indebtedness issued by the Town pursuant to the provisions of this Section, and the interest thereon, shall be exempt from all State, County, or Municipal taxes.

707.2.3 Limit of Aggregate Long-Term Indebtedness. In no event shall the indebtedness of the Town of Townsend, authorized by this Section, at any one time exceed, in the aggregate, five percent (5%) of the appraised value of all real property within the corporate limits of the Town and subject to assessment for the purpose of levying annual taxes as provided in this Charter.

Section 708. Annual Audit.

The financial books and accounts of the town shall be audited annually.

ARTICLE VIII General provisions

Section 801. Eminent Domain.

The Town Council 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, the County of New Castle 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 Council, Mayor 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 reasonable 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 Council 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 Council Mayor 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: By a majority vote of a quorum of the Town Council consisting of Council members who are not parties to such action, suit or proceeding, or

If such quorum is not obtained, by independent legal council in a written opinion.

Section 803. Limitation on Liability.

No claim or cause of action shall arise, and no judgment, damages, penalties, cost 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 Section 4010-4013, Title 10 of the Delaware Code or its successor.

Section 804. Compendium.

It shall be the duty of the Town Council 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 person 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 Mayor shall make such further copies of the Charter, from time to time, as may be necessary. Copies of the Town Charter shall be available for the perusal of the town citizens.

Section 805. Separability.

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, contracts 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 Council 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 Mayor and Council holding office on the effective date of this Charter shall continue as the Mayor and Council until their successors are elected and qualify pursuant to the first general election provided hereunder.

SYNOPSIS

This Act reincorporates the Town of Townsend. Author: Town Council of Townsend