City of Dover

MAYOR AND COUNCIL

DRAFT PROPOSED COUNCIL RESOLUTION NO. 2009-06

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That the 2005 Charter Review Committee and the City of Dover Legislative, Finance, and Administration Committee have conducted a thorough review of the City of Dover Charter and have recommended amendments; and

BE IT FURTHER RESOLVED that the recommendations have been considered by the City Council, which has determined that Article I. Powers of the City, Article II. Mayor and Council, Article III - City Manager, and Article IV - Financial Affairs of the Charter of the City of Dover should be amended; and

BE IT FURTHER RESOLVED THAT the General Assembly of the State of Delaware is hereby respectfully requested to amend the Charter of the City of Dover.

ADOPTED: *

KENNETH L. HOGAN	CARLETON E. CAREY, SR.
COUNCIL PRESIDENT	MAYOR

Draft

SYNOPSIS

This amendment would codify the 2005 Charter Review Committee and Legislative, Finance, and Administration Committee recommendations, as approved by City Council.

Actions History

Mar 9, 2009 - Introduced at City Council

March 9, 2009

Sponsor:_____

House of Representatives
145th General Assembly
House Bill No.____

AN ACT TO AMEND THE CHARTER OF THE CITY OF DOVER BEING CHAPTER 175, VOLUME 75 OF THE LAWS OF DELAWARE, AS AMENDED, REGARDING GENERAL PROVISIONS

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

Section 1. Amend Chapter 175, Volume 75, Laws of Delaware, by inserting a new preamble, which amendment if adopted by the General Assembly would be as follows:

PREAMBLE

We the people of the City of Dover, under the constitution and laws of the state of Delaware, in order to secure the benefits of local self-government and to provide for an honest and accountable council-manager government do hereby adopt this charter and confer upon the city the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

Section 2. Amend Article I by deleting it in its entirety and inserting in lieu thereof the following:

ARTICLE I. POWERS OF THE CITY

Sec. 1.01. Powers of the City.

In addition to the powers specifically enumerated by statutes in Title 22 of the Delaware Code and elsewhere, the City of Dover shall assume and have all powers which under the Constitution of the State it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute.

Sec. 1.02. Construction.

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

Draft

Sec. 1.03. Intergovernmental Relations.

The city may participate by contract or otherwise with any governmental entity of this state or of the United States in the performance of any activity which one or more of such entities has the authority to undertake.

Sec. 1.04. Municipal corporation continued; boundaries.

The municipal corporation of the State of Delaware, known as "the City of Dover" shall continue to be a body politic and corporate. The boundaries of the City of Dover are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office in and for Kent County and State of Delaware as presently existing and as hereinafter amended.

Sec. 1.05. Procedure to extend boundaries.

The City Council shall have the authority to annex any parcel(s) contiguous to the City by complying with the provisions of Title 22, Chapter 1, Section 101 (22 Del. C. § 101).

Sec. 2. Status, general corporate powers, specific provisions for condemnation of property.

The inhabitants of the City of Dover within the boundaries defined in section 1.04 of this Charter, or within the boundaries hereafter established, shall continue to be a body politic and corporate, by the name of "the City of Dover," and under that name shall have perpetual succession; may have and use a corporate seal; may sue and be sued; may hold and acquire by purchase, gift, devise, lease or condemnation, real property and personal property within or without its boundaries for any municipal purpose, in fee simple or lesser estate or interest, and may sell, lease, hold, manage, and control such property as its interest may require; and shall have all other powers and functions requisite or appropriate for the government of the city, its peace and order, its sanitation, appearance and beauty, the health, safety, convenience, comfort and well-being of its population, and the protection and preservation of property, public and private.

Whenever it shall be necessary for any municipal purpose to condemn any real property or personal property under this Charter, except as is herein otherwise specifically provided, the council must follow applicable state law.

Sec. 3. Employee pension, benefit and retirement systems authorized.

The City of Dover is hereby authorized, empowered and permitted to establish a system of pensions or benefits through group insurance or otherwise as may be found proper and necessary, providing for life, accident, health, hospitalization and death benefits, or any or either of them, for the regular employees of the said "City of Dover." The said "City of Dover" is hereby authorized, empowered and permitted to enter into an agreement or agreements with one or more insurance companies to provide a group insurance plan or plans, as may be required or proper to carry out such system of pensions or benefits. The election to exercise such authority on the part of the city shall be evidenced by an ordinance

Draft

or resolution duly adopted by the council of the City of Dover as other ordinances or resolutions are adopted, and the same shall be recorded in the official minutes of the said council. Such ordinance or resolution shall provide for and establish a fund for the payment of the costs of such pension system or benefits by making appropriations out of the treasury of the said "City of Dover," or by requiring contributions payable from time to time by the employees included in such plan or plans, or by a combination of both, or by any other method not prohibited by law. The participation in any plan adopted shall be deemed to be mandatory by the City of Dover and made a condition of employment and continuing employment.

The city council shall have power to enact ordinances for a pension or retirement system for the police of the City of Dover, and to set aside a special fund for that purpose which fund shall be administered in accordance with ordinances made and provided in that behalf and the laws of the State of Delaware.

Notwithstanding any statute to the contrary, the City of Dover shall have the power by ordinance to impose and collect a tax, to be paid by the transferor or transferee as determined by council, upon the transfer of real property within the city not to exceed one and one-half percent or as amended by state law of the value of the real property as represented by the document transferring the property. The provisions of Section 5401 and Section 5403 of Chapter 54, Title 30 of the Delaware Code (30 Del. C. §§ 5401, 5403) shall apply with respect to any realty transfer tax imposed by the City of Dover pursuant to the authority granted herein. The council of the City of Dover may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the authority conferred herein. If the taxing power and authority granted herein shall be exercised by way of a stamp affixed to a document, the recorder of deeds in and for Kent County shall not receive for record documents subject to said tax unless stamps provided by the City of Dover are affixed thereto showing payment of the tax.

Section 3. Amend Article II by deleting Sec. 4 through Sec. 6 in their entirety and inserting in lieu thereof the following:

ARTICLE II. MAYOR AND COUNCIL

Sec. 4. General Powers and Duties.

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

Sec. 5. Council to be legislative body; size; districts; terms of mayor and councilmen; qualifications.

The council shall be the legislative body of the city and composed of nine members nominated and elected as herein provided.

In order that the members of council shall be distributed over the city, the city shall be divided into four election districts, the district boundaries of which shall he established by

Draft

council so that the districts are nearly equal in population as shown by the most recent federal decennial census. The district boundaries established for municipal elections shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware, at which time council shall redistrict the city so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election, which procedure shall be followed by council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.

The term of mayor shall be for a period of two years commencing on the second Monday in May following their election and continuing for a term of two years until the second Monday in May or until their successor has been duly elected and qualified.

The term of the councilmen shall be for two years. In each regular municipal election held in an odd numbered year, five councilmen shall be elected, four by district voting being from the districts and one at-large as stated herein. In each regular municipal election held in an even numbered year, four councilmen shall be elected by district voting from each of the districts of the city.

In order to be eligible to be elected as mayor or as a member of council, the person must as of the date of the election be:

(1) A citizen of the United States and of the State of Delaware;
(2) A resident of the city and having continuously resided therein or in an area annexed to the city during the two years next preceding the day of the election;
(3) A resident of the election district from which they are seeking election, unless they are seeking election as an at-large councilman or mayor;
(4) Eighteen years of age; and
(5) Nominated therefore, as hereinafter provided.

Holding Other Office. Except where authorized by law, no council members shall hold any other elected public office during the term for which the member was elected to the council. No council member shall hold any other city office or employment during the term for which the member was elected to the council. No former council members shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the council, unless granted a waiver by the Board of Ethics (Ethics Commission).

If a councilman files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday of May on the year of the election; and if they have a year remaining on their term, then their office as councilman shall he filled at the same annual election in which they have filed to run for the office of mayor.

Sec. 6. Municipal election; dates, time, and place of elections.

Regular municipal elections shall be held each year on the third Tuesday in April. All other municipal elections that may be held shall be known as special municipal elections. At each

Draft

such municipal election, the polls shall be opened at 7:00 a.m. and closed at 8:00 p.m. The council may designate the places of election and make all necessary rules and regulations not inconsistent with this Charter or with other laws of the State of Delaware for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud. At the regular municipal election held on the third Tuesday in April of any odd numbered year, five councilmen shall be elected for a term of two years, four of whom shall be elected by district voting from each of the districts as designated by council and one of whom shall be elected by at-large voting by all voters of the city, as provided in section 5 of this Charter. At the regular municipal election held on the third Tuesday in April of any even numbered year, four (4) councilmen shall be elected by district voting from each of the districts as designated by council for a term of two years, and a mayor shall be elected by the voters of the city for a term of two years, as provided in section 5 of this Charter.

Section 4. Amend the first paragraph of Article II, Sec. 7 by deleting "4:00" p.m. and inserting in lieu thereof "4:30" p.m. to read as follows:

Sec. 7. Nomination petitions for candidates for council and mayor.

The mode of nomination of candidates for the council and for mayor shall be by petition, signed by not less than ten nor more than 25 electors of the city, filed with the clerk of council on or before 4:30 p.m. on the second Friday of February of each year for candidates for council and on or before 4:30 p.m. on the last working day in January for candidates for mayor in the years when a mayor is to be elected. Should the second Friday of February fall on a legal holiday, the filing date shall he 4:30 p.m. on the next working day thereafter which is not a legal holiday.

Section 5. Amend Article II, Sec. 8 by deleting it in its entirety and inserting in lieu thereof the following:

Sec. 8. Election board; counting of votes; determination of winners; tie votes; persons eligible to vote; voter registration; official ballots and voting machines; absentee ballots.

There is hereby created an election board which shall be a non-elected body to oversee the municipal elections, as well as to serve as an advisory board to Council on such matters as voter registration, municipal elections, election rules and regulations, and polling locations for City elections. The board shall be composed of five (5) members, serving three (3) years terms, to be appointed by the Mayor and confirmed by council at the Annual Meeting, or as necessary to fill vacancies as they occur. One member shall be appointed from each district into which the city has been divided for election purposes, and one member shall be appointed on an at-large basis. The City Clerk shall serve as a liaison member of the board. Upon expiration of the term of appointment, a member shall serve until his/her successor has been duly appointed. If a vacancy occurs during the term of any member of the election board, a person residing in the same numbered district shall be appointed to fill the remainder of said term. Members serve without salary, but shall be paid a per diem allowance as specified by City ordinances.

To be eligible for appointment to the election board, each prospective member shall be a

Draft

citizen of the United States, a registered voter within the City, and have resided within the geographical boundaries of the City for one year preceding the appointment. The Mayor and members of Council, their parents, spouse, or children, shall not be eligible for appointment to the election board.

All elections shall be held by the election board. The City Clerk may designate such other persons as he shall deem necessary to assist the members of the election board in the conduct of the election and counting of the ballots. Should any or all of the members of the election board be absent from the place of election at 7:00 a.m. on the day of the election or fail or neglect to act in the conduct of such election during the time the polls are open and until the ballots are counted and the results of the election certified, the voters of the city present at such time may choose from the qualified voters of the city such person or persons as shall he necessary to fill places made vacant by the absence or neglect aforesaid.

When the polls are closed, the election board shall publicly count the votes and shall certify the results of the election to each of the persons selected and to the council. The candidate for the office of mayor who receives the highest number of votes cast for that office shall be declared to be elected mayor; the candidate for the office of at-large councilman who receives the highest number of votes cast for that office shall be declared to be elected at-large councilman; and the candidates for the offices of councilmen from each district who receive the highest number of votes cast by voters who reside in that district and cast votes for councilmen of that district shall be declared to be elected to that office. In the event of a tie vote for any office, a special election for said office(s) only shall be held within 30 days and the registration books shall remain closed until the outcome of the special election is determined.

Every resident of the City of Dover who shall have reached the age of 18 years by the time of the election and who is properly registered to vote shall be entitled to vote at all regular or special municipal elections. A voter will be considered properly registered to vote if they are properly registered to vote for state elections in accordance with Title 15 of the Delaware Code as amended.

The council shall provide for the use of voting machines in all regular and special municipal elections in conformity with Title 15 of the Delaware Code by ordinance duly adopted by council. Voting machines shall be used in accordance with Title 15 of the Delaware Code and by ordinance duly adopted by council. The names of the candidates for each office shall be listed in alphabetical order on the voting machines under the name of the office to which they seek election. The voters shall designate their choice of candidates in accordance with the regular method of operation of voting machines. The council may provide sample ballots plainly marked as such and printed on paper of any color except white to be distributed to any voter or candidate who requests them prior to or during the election.

Any qualified voter, duly registered, who shall be unable to appear to cast their ballot at any election either because of being in the public service of the United States or of this state, or because they will be unavoidably absent from the city on the day of the election, or because of his sickness or physical disability may cast a ballot at such election by absentee ballot to be counted in the total of such election. The council may provide the rules and regulations for such absentee voting by ordinance for all elections.

Draft

Section 6. Amend Article II, Sec. 10 by deleting it in its entirety and inserting in lieu thereof the following:

Sec. 10. Meetings of mayor and council--Procedure.

Five of the members elected to the council shall constitute a quorum to do business, but a less number may adjourn 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.

No ordinance, resolution, motion or order shall be valid unless it shall have (1) the affirmative vote of a majority of the members elected to the council, and (2) the written approval of the mayor, or the vice-mayor in those cases where the vice-mayor is authorized to act as mayor as provided in section 15 hereof, provided that in the absence of such approval by the mayor, or the vice-mayor as the case may be, the council may, after not less than seven days nor more than 35 days after the prior vote, pass or adopt the said ordinance, resolution, motion or order which did not receive the approval of the mayor, or the vice-mayor, by the affirmative vote of two-thirds of the members elected to council.

Whenever the council shall adopt an ordinance, resolution, motion or order, it shall be the duty of the mayor, or the vice-mayor, to signify his/her approval or disapproval thereof in writing to the clerk of the council within seven days thereafter. The clerk of the council shall forthwith notify the members of the council of such approval or disapproval.

Motions to adjourn meetings of council and orders to compel the attendance of absent members shall not require the approval of the mayor or vice-mayor.

A councilman shall abstain from voting on a matter that he feels would involve the consideration of his own official conduct, on a matter in which he has a financial interest, in a matter in which he has a conflict of interest or in accordance with a policy adopted by council.

The yeas and nays shall be taken upon the passage of every ordinance and resolution and entered together with the text of the ordinance or resolution upon the journal of the proceedings of the council. The journal shall be deemed conclusive evidence of the facts stated therein except in the case of fraud.

The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk.

Draft

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.

Section 7. Amend Article II, Sec. 12, Sec. 13, and Sec. 16 by deleting them in their entirety and inserting in lieu thereof the following:

Sec. 12. Compensation; Expenses–Mayor, council members, and other elected or appointed officials.

The city council shall determine the annual salary and emoluments of the mayor, council members, and other elected or appointed officials by ordinance, but no ordinance increasing the salary of the mayor or city council members shall become effective until the date of commencement of the terms of the mayor or council members elected at the next regular election. The mayor and council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 13. Vacancies; forfeiture of Office; Filling of Vacancies

(a) Vacancies. The office of a council member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. A council member shall forfeit that office if the council member:

(1) Fails to meet the residency requirements,
(2) Violates any express prohibition of this charter,
(3) Is convicted of a crime involving moral turpitude, or
(4) Fails to attend three consecutive regular meetings of the council without being excused by the council.

In the case of any such vacancy or of any vacancy created by death, resignation or otherwise for which said vacancy shall be less than six months in duration, the office shall remain vacant. If such vacancy should be in excess of six months in duration, a special election shall be held to fill such vacancy, this special election to be held no sooner than 30 days from the date of the vacancy, but said special election to be held no later than 60 days after the date of the vacancy. If council fails to call for a Special Election, the Special Election shall be called by the Election Board.

Sec. 16. City Clerk

The city council shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this charter or ordinance or by the council or by state law.

Draft

Section 8. Amend Article II, Sec. 17 by replacing "City treasurer" with "Controller/treasurer" throughout, to read as follows:

Sec. 17. Controller/treasurer.

At the annual meeting the council shall elect a controller/treasurer to hold office until the next annual meeting of the council, or until his/her successor has been duly chosen and qualified, but subject to removal at any time by the council.

The controller/treasurer shall be the custodian of all the city funds and shall deposit them in a banking institution designated by the council.

Section 9. Amend Article II, Sec. 18 by deleting "provided that no fine or penalty shall exceed the sum of $1,000.00;" and inserting in lieu thereof "as penalties will be provided by the Code", to read as follows:

Sec. 18. Ordinances authorized; maximum penalty for violation.

The council is hereby vested with the authority to adopt ordinances of every kind relating to any subject coming within the powers and functions of the city, or relating to the government of the city, its peace and order, its sanitation, appearance and beauty, the health, safety, convenience and comfort of its population, and the protection and preservation of property, and to fix and impose and enforce the payment of fines and penalties for the violation of any such ordinance; as penalties will be provided by the Code and no provision in this Charter as to ordinances on any particular subject shall be deemed or held to he restrictive of the power to adopt ordinances on any subject not specifically enumerated.

Section 10. Amend Article III, Sec. 35,Sec. 36, and Sec. 39 by deleting them in their entirety and inserting in lieu thereof the following:

ARTICLE III. CITY MANAGER

Sec. 35. Appointments and Removals.

Neither the city council nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the city manager or any subordinate of the city manager is empowered to appoint, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees. The city administrative officers and employees can be assured of due process in accordance with 19 Del. C.

Sec. 36. Interference with Administration.

Except for the purpose of inquiries, and investigations by council under Sec. 39, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

Draft

Sec. 39. Investigations

The city council may make investigations into the affairs of the city and the conduct of any city department, office, officer, employee, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a Class A misdemeanor punishable by existing State Law.

Section 11. Amend Article III, Sec. 40 by replacing "City treasurer" with "Controller/treasurer" throughout, to read as follows:

Sec. 40. Other functions of city manager.

The city manager shall have charge of the light and water plant operated by the city, and of the light and water and sewer systems of the city. The city manager shall have charge of the supervision of the streets, gutters, curbs and sidewalks of the city and of all work relating thereto. The city manager shall have charge of the administration of all provisions of this Charter and ordinances and regulations of the council relating to affairs of the city, when not otherwise provided for by this Charter or by any ordinance or resolution of the council. The city manager shall ex officio be the collector of taxes for the city. It shall be his/her duty to collect all water rents and fees for the tapping of water mains and sewers, all charges for electric current and all city revenue from any source whatsoever. The city manager shall pay over to the controller/treasurer at least monthly, and oftener if required by council, all moneys received or collected by him/her and by any employee under him/her.

The city manager shall keep a full and strict account of all moneys received and all transfers made by him/her to the controller/treasurer and such accounts shall be at all times open to inspection by the council. The city manager shall make such reports and at such times as the council shall direct.

Section 12. Amend Article IV, Sec. 42, Sec. 45, Sec. 46 by replacing "City treasurer" with "Controller/treasurer" throughout, to read as follows:

ARTICLE IV. FINANCIAL AFFAIRS

Sec. 42. Signing of warrants.

The controller/treasurer shall pay out no money except upon warrant signed by the city manager and countersigned by the mayor.

The mayor and the city manager shall sign no warrants on the controller/treasurer except pursuant to appropriations or resolutions theretofore made by the council.

The controller/treasurer shall keep a true and detailed account of all moneys received and of all moneys paid out by him/her. The controller/treasurer shall preserve all vouchers for moneys paid by him/her. His/her books and accounts shall at all times be open to inspection by the council or the mayor or the city manager.

Draft

The controller/treasurer shall make such reports and at such times as the council may direct.

The controller/treasurer shall be required to give bond in such amount and in such form and with such surety as the council shall determine or approve.

Sec. 45. Payment of claims; issuance of warrants after approval of city manager; reports by manager thereon to council.

No claim against the city shall be paid except on an order on the controller/treasurer, signed by the city manager, and approved and countersigned by the mayor. The city manager shall examine all payrolls, bills and other claims and demands against the city and shall issue no warrant for payment, unless he/she finds that the claim is proper and in proper form and correctly computed.

Sec. 46. Annual audit.

Annually in the month of July the council shall have the finances of the city and the books and accounts of the city manager and the controller/treasurer audited by a certified accountant.

As soon as practicable after such audit has been completed, the council shall cause to be made and published a report of the city's finances for the preceding fiscal year.

Section 13. Amend Article IV, Sec. 47 and Sec. 49A by deleting them in their entirety and inserting in lieu thereof the following:

Sec. 47. General assessment; levy on utility property.

The City shall cause to be made a true, just, and impartial valuation and assessment of all real property within the city, locating each parcel of real property by street and number or other description. The valuation and assessment shall be made every three years by an assessor or assessors who shall be elected by the Council at its annual meeting by majority vote thereof. Before entering upon the duties of office, an assessor shall be sworn or affirmed by the Mayor to perform the duties of the assessor's office with fidelity and without favor or partiality.

Whenever Council shall direct, as set forth in the City Ordinance Section 102-1, all real property in the City of Dover shall be assessed by an outside appraiser chosen by Council every three (3) years. This assessment shall be in lieu of the valuation and assessment made by an assessor elected by Council as described herein above and in lieu of the assessor's duties described herein above.

In addition to the annual assessment, the assessor or assessors shall include supplemental assessments made annually for the purposes of (1) adding property not included in the last assessment or (2) increasing or decreasing the assessment value of property which was included in the last annual assessment.

Draft

The annual assessment date for all real property shall be January 1st of each year. The assessment of all property shall be at its true value in money as of the assessment date. True value in money shall be the fair market value.

The general assessment shall be set down by the assessor or assessors in two (2) or more copies, as the Council shall direct, and shall be delivered to the Council as soon as made. The Council shall, on the first day of April of each year, cause a copy of the general assessment to be posted in two (2) public places in the city for ten (10) days. The assessor shall notify the public of an appeal deadline of thirty (30) days from the date of general assessment posting.

The Council may direct that appeals from any assessment be heard by a committee, known as the Board of Assessment Appeals, of not less than three (3) members appointed by the Council. The Board of Assessment Appeals shall sit at a stated place and time to hear the appeals of all taxpayers dissatisfied with the assessment of their properties, shall collect such information as they consider proper and necessary, and shall report their findings

Notice of the place and time that the Board of Assessment Appeals will sit to hear appeals shall be posted with the general assessment in two (2) public places for a period of ten (10) days. Notice of the posting of the copies of the general assessment and of the place and time of the meetings of the Board of Assessment Appeals shall be published in at least one issue of a newspaper published in the city.

The assessment as revised and adjusted by the Board of Assessment Appeals or Superior Court shall be the basis for the levy and collection of taxes for the city.

The Council shall have the right to levy and collect taxes on gas mains, telephone, telegraph, communications systems, or trolley poles or other erection of like character within the limits of the city, together with the wires thereon strung; and to this end the Council may at any time direct the same to be included in or added to the general assessment.

Nothing contained in this section shall be deemed or held to invalidate or otherwise effect any assessment made prior to the approval of this section or any tax levied thereunder.

Sec. 49A. Assessment, payment, and collection of taxes for new construction.

In the event that the mayor and council of the City of Dover desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so provided that: At the beginning of each quarter of each year, there shall be an increase in the valuation and assessment of all newly constructed real property within the city, locating each parcel of real property by street and number or other description. Property shall be deemed to be newly constructed when the city permits occupancy and use (Certificate of Occupancy) or when new construction is being used or occupied for its intended purpose. The said valuation and assessment shall be made by an assessor or

Draft

assessors who shall be elected by council in accordance with the provisions set forth in Section 47 of this Charter.

The aforementioned assessment shall be during the months of January, April, July, and October of each year. Any new construction with an added value of $25,000 or less shall not be realized until the next annual assessment roll. The property owner may appeal any assessment for new construction in accordance with Section 47 of this Charter.

Nothing in this section contained shall be deemed or held to invalidate or otherwise affect any assessment made prior to the approval of this section or any tax levied thereunder.

All taxes shall be paid to the collector of taxes. Said taxes shall be paid within thirty (30) days of billing and those taxes not paid shall accrue a penalty in the amount of one and one-half (1½) percent per month. For every tax that is not paid as prescribed herein, the tax collector shall have all the powers conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County.

The council shall have the authority to allow errors and delinquents in the assessment.

The provisions of 9 Del. C. § 8705 and 25 Del. C. §§ 2901 through 2905, as they may from time to time be amended, shall be deemed and held to apply to all taxes laid and imposed upon the provisions of this Charter.

Section 14. Amend Article IV, Sec. 50 by deleting subparagraph (c)(I) in its entirety and inserting in lieu thereof the following:

(i) To finance public storm sewers, streets and appurtenances provided that no more than 1/4 of one percent (.25%) of taxable assessed value of real property of aggregate principal amount of bonds may be issued at any one time pursuant to this clause and any new bonds issued pursuant to this clause may not cause the total aggregate principal amount of bonds outstanding at any one time to exceed one percent of the total taxable assessment for a general tax at the time such new bonds are issued; and

Section 15. This Act shall be effective upon its enactment in accordance with law.

SYNOPSIS

This act would amend Articles I through IVof the City of Dover Charter with the recommendations of the 2005 Charter Review Committee and the Legislative, Finance, and Administration Committee, as approved by City Council. Amendments are also included to conform with 15 Del. C.

Draft

PREAMBLE (NEW)

We the people of the City of Dover, under the constitution and laws of the state of Delaware, in order to secure the benefits of local self-government and to provide for an honest and accountable ~~mayor-council~~ *council-manager* government do hereby adopt this charter and confer upon the city the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

(Adopted by Council 11/13/2007)

ARTICLE I. ~~GENERAL PROVISIONS~~ *POWERS OF THE CITY*

(Adopted by Council 11/13/2007)

Sec. 1.01. Powers of the City.

~~***The city shall have all powers possible for a city to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.***~~

(Adopted by Council 11/13/2007 - Replaces 1st Paragraph of Sec. 3)

Deputy City Solicitor Pepper recommended the following in lieu of previously adopted Sec. 101 Powers of the City in order to preserve the home rule language in the current Charter and to track 22 Del. C. §802:

Sec. 1.01. Powers of the City.

In addition to the powers specifically enumerated by statutes in Title 22 of the Delaware Code and elsewhere, the City of Dover shall assume and have all powers which under the Constitution of the State it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute.

Sec. 1.02. Construction.

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

(Adopted by Council 11/13/2007)

Draft

Sec. 1.03. Intergovernmental Relations.

The city may participate by contract or otherwise with any governmental entity of this state or ~~any other state or states~~ of the United States in the performance of any activity which one or more of such entities has the authority to undertake.

(Adopted by Council 11/13/2007 - Strikeout advised by Deputy City Solicitor Pepper)

Sec. 1.*04.* Municipal corporation continued; boundaries.

The municipal corporation of the State of Delaware, known as "the City of Dover" shall continue to be a body politic and corporate. The boundaries of the City of Dover are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office ***in and*** for Kent County and State of Delaware as presently existing and as hereinafter amended.
(Amd. of 7-12-2005 (S.B. 126))

(Correction)

Sec. 1.*05*~~A~~. Procedure to extend boundaries.

The City Council shall have the authority to annex any parcel(s) contiguous to the City by complying with the provisions of Title 22, Chapter 1, Section 101 (22 Del. C. § 101).

(Adopted by Council 11/13/2007)

~~In order to extend the boundaries of the City of Dover the council shall adopt a resolution proposing the inclusion of territory or territories within the limits of the City of Dover and calling for a special election to be held in said territory or territories in accordance with Title 22, Chapter 1, Section 101, Delaware Code (22 Del. C. § 101) insofar as applicable. Said resolution shall contain a description of the territory or territories proposed to be annexed and shall specify the date of such election, which shall be not less than 30 nor more than 60 days after the adoption of said resolution, and the place or places of said election. Said resolution shall be published in at least two issues of a newspaper of general circulation within the City of Dover at least two weeks prior to the day of said election.~~

~~Elections may be held in more than one of said territories on the same day, but the said elections shall be separate; only the votes of qualified voters of a territory as herein described shall be counted in the election to determine whether the territory shall be annexed.~~

~~Any such election shall be held by the election officers of the election district or districts of Kent County which shall include the territory proposed to be annexed. Every person 18 years of age or upwards who is duly registered upon the books of registered voters for said election district, or districts, who is a resident of the territory proposed to be included within the limits of the City of Dover, and who does not own real estate within said territory shall be entitled to one vote at the election to determine whether said territory shall be annexed; and every person who is the owner of real estate within a territory proposed to be included assessed to them on the assessment records of Kent County, shall be entitled to one vote. Owners of real estate in common shall be entitled to one vote each. Life tenants shall be entitled to one vote each but the holders of the remainder interest or~~

Draft

~~similar interest subject to the life estate shall not be entitled to vote. Corporations, firms or associations shall be entitled to one vote, the same as private persons.~~

~~The Council of the City of Dover shall provide the ballots for any such election and shall bear the cost of holding such election. The ballots shall briefly indicate the territory proposed to be included and shall provide two boxes on the ballot beside which shall appear the words "FOR inclusion within the City of Dover," and "AGAINST inclusion within the City of Dover." Each voter shall indicate their preference by making a mark within the box beside the words expressing their preference. At any such election the polls shall he open from 11:00 a.m. to 8:00 p.m. When the polls are closed the election officers shall publicly count the votes and forthwith certify to the clerk of the council the number of votes cast for and against inclusion within the city limits. At the next regular or special meeting of the council the mayor and council shall receive the results of the election and make the same a part of the minutes of said meeting.~~

~~If a majority of the votes cast in an election held in a territory proposed to be annexed shall be in favor of the inclusion of that territory, the council may thereupon adopt a resolution annexing said territory and including same within the limits of the City of Dover. Upon the adoption of a resolution of annexation a copy thereof certified by the clerk of council and a plot of the area annexed shall be forthwith filed for record with the Recorder of Deeds of Kent County, and the area so annexed shall for all purposes thenceforth be part of the City of Dover.~~

~~If a majority of the votes cast in an election held in a territory proposed to be annexed shall be against the inclusion of that territory within the limits of the City of Dover, the proposed annexation of said territory shall be declared to have failed. Nothing in this Charter shall prohibit the council from resubmitting a proposal of annexation to the voters of said territory, or any portion thereof, under the authority of this section and in accordance with the provisions thereof.~~
~~(Amd. of 7-12-2005 (S.B. 126))~~

(Adopted by Council 11/13/2007)

Sec. 2. Status, general corporate powers, specific provisions for condemnation of property.

The inhabitants of the City of Dover within the boundaries defined in section 1.***04*** of this Charter, or within the boundaries hereafter established, shall continue to be a body politic and corporate, by the name of "the City of Dover," and under that name shall have perpetual succession; may have and use a corporate seal; may sue and be sued; may hold and acquire by purchase, gift, devise, lease or condemnation, real property and personal property within or without its boundaries for any municipal purpose, in fee simple or lesser estate or interest, and may sell, lease, hold, manage, and control such property as its interest may require; and shall have all other powers and functions requisite or appropriate for the government of the city, its peace and order, its sanitation, appearance and beauty, the health, safety, convenience, comfort and well-being of its population, and the protection and preservation of property, public and private.

Whenever it shall be necessary for any municipal purpose to condemn any real property or personal property under this Charter, except as is herein otherwise specifically provided, the council must follow applicable state law.
(Amd. of 7-12-2005 (S.B. 126))

Draft

Sec. 3. ~~Enumeration of power not exclusive; manner of exercise of powers;~~ **Employee pension, benefit and retirement systems authorized.**

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

(Adopted by Council 11/13/2007 - See new Section 1.01. Powers of the City.)

The City of Dover is hereby authorized, empowered and permitted to establish a system of pensions or benefits through group insurance or otherwise as may be found proper and necessary, providing for life, accident, health, hospitalization and death benefits, or any or either of them, for the regular employees of the said "City of Dover." The said "City of Dover" is hereby authorized, empowered and permitted to enter into an agreement or agreements with one or more insurance companies to provide a group insurance plan or plans, as may be required or proper to carry out such system of pensions or benefits. The election to exercise such authority on the part of the city shall be evidenced by an ordinance or resolution duly adopted by the council of the City of Dover as other ordinances or resolutions are adopted, and the same shall be recorded in the official minutes of the said council. Such ordinance or resolution shall provide for and establish a fund for the payment of the costs of such pension system or benefits by making appropriations out of the treasury of the said "City of Dover," or by requiring contributions payable from time to time by the employees included in such plan or plans, or by a combination of both, or by any other method not prohibited by law. The participation in any plan adopted shall be deemed to be mandatory by the City of Dover and made a condition of employment and continuing employment.

The city council shall have power to enact ordinances for a pension or retirement system for the police of the City of Dover, and to set aside a special fund for that purpose which fund shall be administered in accordance with ordinances made and provided in that behalf and the laws of the State of Delaware.

Notwithstanding any statute to the contrary, the City of Dover shall have the power by ordinance to impose and collect a tax, to be paid by the transferor or transferee as determined by council, upon the transfer of real property within the city not to exceed one and one-half percent or as amended by state law of the value of the real property as represented by the document transferring the property. The provisions of Section 5401 and Section 5403 of Chapter 54, Title 30 of the Delaware Code (30 Del. C. §§ 5401, 5403) shall apply with respect to any realty transfer tax imposed by the City of Dover pursuant to the authority granted herein. The council of the City of Dover may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the authority conferred herein. If the taxing power and authority granted herein shall be exercised by way of a stamp affixed to a document, the recorder of deeds in and for Kent County shall not receive for record documents subject to said tax unless stamps provided by the City of Dover are affixed thereto showing payment of the tax.

(Amd. of 7-12-2005 (S.B. 126))

Draft

CITY OF DOVER PROPOSED ORDINANCE #2009-02

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That the Dover Code of Ordinances be amended by inserting a new Chapter 3 - Annexation, to read as follows:

Chapter 3 - ANNEXATION

Sec. 3-1. Annexation.

The City may, from time to time, extend its boundaries through the process of annexation in accordance with the provisions of the Charter, Section 1.05, and Title 22, Chapter 1, Section 101 (22 Del.C.§101).

Sec. 3-2. Process.

The fee simple owner or owners of real property that is contiguous to the existing corporate limits may petition City Council to annex that property. Such petition shall be submitted on an application form prepared by the City Clerk, along with a survey drawing of the land proposed for annexation and a metes and bounds property description. If the property has multiple owners, each owner must sign the petition. If the property is owned by an artificial entity, an authorized agent of the artificial entity must sign the application.

Following receipt of the complete application, the City Clerk shall prepare a proposed ordinance. The proposed ordinance shall specify the current zoning in Kent County and the proposed zoning in the City of Dover. The survey and property description shall be attached to the proposed ordinance. Adoption of the ordinance shall constitute an amendment to the zone map, and all requirements of Title 22, Chapter 3 (22 Del. C., Chapter 3) and Dover Code, Appendix B. Zoning, Article 10, Section 5 shall apply.

At first reading of the ordinance, the ordinance shall be referred to the Utility Committee and the Planning Commission, on dates set by City Council, and Council will set a date for the final reading and public hearing. The ordinance shall be processed in the same manner as amendments to the zone map, as set forth in Dover Code, Appendix B. Zoning, Article 10, Section 5.

Following final reading and action by City Council, the City Clerk shall record the ordinance and attachments with the Recorder of Deeds for Kent County, Delaware, within 45 days.

BE IT FURTHER ORDAINED THAT Chapters 4-5 be reserved.

ADOPTED: *

SYNOPSIS

This Ordinance creates a new Chapter 3 - Annexation, which provides the process for annexing property.

Actions History

February 23, 2009 - Introduced at LF&A Committee

Draft

ARTICLE II. MAYOR AND COUNCIL

Sec. 4. ***General Powers and Duties.*** ~~**Government vested in mayor and city council.**~~

All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. ~~The government of the said city and the exercise of all the powers conferred by this Charter (except as otherwise provided herein) shall be vested in a mayor and city council.~~ (Amd. of 7-12-2005 (S.B. 126))

(Amendment Adopted by Council 11/26/2007)

Sec. 5. Council to be legislative body; size; districts; terms of mayor and councilmen; qualifications.

The council shall be the legislative body of the city and composed of nine members nominated and elected as herein provided.

In order that the members of council shall be distributed over the city, the city shall be divided into four election districts, the district boundaries of which shall he established by council so that the districts are nearly equal in population as shown by the most recent federal decennial census. The district boundaries established for municipal elections shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware, at which time council shall redistrict the city so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election, which procedure shall be followed by council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.

The term of mayor shall be for a period of two years commencing on the second Monday in May following their election and continuing for a term of two years until the second Monday in May or until their successor has been duly elected and qualified.

The term of the councilmen shall be for two years. In each regular municipal election held in an odd numbered year, five councilmen shall be elected, four by district voting being from the districts and one at-large as stated herein. In each regular municipal election held in an even numbered year, four councilmen shall be elected by district voting from each of the districts of the city.

In order to be eligible to be elected as mayor or as a member of council, the person must as of the date of the election be:

(1) A citizen of the United States and of the State of Delaware;
(2) A resident of the city and having continuously resided therein or in an area annexed to the city during the two years next preceding the day of the election;
(3) A resident of the election district from which they are seeking election, unless they are seeking election as an at-large councilman or mayor;
(4) ***Eighteen*** ~~Twenty-one~~ years of age; and
(5) Nominated therefore, as hereinafter provided.

(Amendment Adopted by Council 11/26/2007)

Holding Other Office. Except where authorized by law, no council members shall hold any other elected public office during the term for which the member was elected to the council. No council member shall hold any other city office or employment during the term for which the member was elected to the council. No former council members shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the council, unless granted a waiver by the Board of Ethics (Ethics Commission).

(Amendment Adopted by Council 12/10/2007)

If a councilman files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday of May on the year of the election; and if they have a year remaining on their term, then their office as councilman shall he filled at the same annual election in which they have filed to run for the office of mayor.

Sec. 6. Municipal election*; date**s, time, and place of elections*.**

Regular municipal elections shall be held each year on the third Tuesday in April ***and shall be*** ~~***known as regular municipal elections***~~. All other municipal elections that may be held shall be known as special municipal elections. ***At each such*** ~~***regular***~~ ***municipal election, the polls shall be opened at 7:00 a.m. and closed at 8:00 p.m. The council may designate the places of election and make all necessary rules and regulations not inconsistent with this Charter or with other laws of the State of Delaware for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud.*** At the regular municipal election held on the third Tuesday in April of any odd numbered year, five councilmen shall be elected for a term of two years, four of whom shall be elected by district voting from each of the districts as designated by council and one of whom shall be elected by at-large voting by all voters of the city, as provided in section 5 of this Charter. At the regular municipal election held on the third Tuesday in April of any even numbered year, four (4) councilmen shall be elected by district voting from each of the districts as designated by council for a term of two years, and a mayor shall be elected by the voters of the city for a term of two years, as provided in section 5 of this Charter.
(Strikeout advised by Deputy City Solicitor Pepper - redundant)

~~***The regular municipal election shall be held annually on the third Tuesday of April. At each such regular municipal election, the polls shall be opened at 7:00 a.m. and closed at 8:00 p.m. The council may designate the places of election and make all necessary rules and regulations not inconsistent with this Charter or with other laws of the State of Delaware for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud.***~~
(Amd. of 7-12-2005 (S.B. 126))

(Staff moved from Section 8 - Time and place of elections; Election board; counting of votes; determination of winners; tie votes; persons eligible to vote; voter registration; official ballots and voting machines; absentee ballots. Combined to eliminate duplicate language.)

Sec. 7. Nomination petitions for candidates for council and mayor.

The mode of nomination of candidates for the council and for mayor shall be by petition, signed by not less than ten nor more than 25 electors of the city, filed with the clerk of council on or before ***4:30*** ~~**4:00**~~ p.m. on the second Friday of February of each year for candidates for council and on or before ***4:30*** ~~**4:00**~~ p.m. on the last working day in January for candidates for mayor in the years when a mayor is to be elected. Should the second Friday of February fall on a legal holiday, the filing date shall he ***4:30*** ~~**4:00**~~ p.m. on the next working day thereafter which is not a legal holiday.

Whenever a petition nominating a person for the office of mayor or councilman shall have been filed as above prescribed, the name of such person shall he printed on the ballot for the regular municipal election as a candidate for the office for which they were nominated, provided they possess the qualifications prescribed by this Charter for a candidate for such office.

No nominating petition shall designate more than one person to be voted for as a member of council or as mayor.

The signers of a nominating petition for a member of the council must be electors of the city residing in the city election district in which the nominee resides; but the signers to the nominating petition for the mayor and for the at-large councilman may be city electors residing in the city at-large.

There must be attached to each nominating petition an affidavit of the circulator thereof, stating the number of signers and that each signature appended thereto was made in their presence, and is the genuine signature of the person whose name it purports to be, and that all of said signers are entitled to vote at the regular municipal election referred to; and, in the case of a petition nominating a candidate for councilman running from a particular district and to be elected by district voting, that the circulator of the petition verily believes that each signer of said petition is a resident of the same city election district in which the nominee resides.

With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. The form of the nominating petition shall be substantially as follows:

We, the undersigned, electors of the City of Dover, hereby nominate _____, who resides in the _____ City District of the said City of Dover, for the office of Councilman (or for the office of Mayor as the case may be) to he voted for at the regular municipal election to be held in the said City, on the _____ day of _____ in the year _____; and we individually certify that we are qualified to vote for a candidate for the office named, and that we have not signed any other nominating petition for that office, and that our places of residences are truly stated after our signatures.

Name _____
Street and number _____
(Space for Signatures)
STATE OF DELAWARE
KENT COUNTY
SS.

_____ being duly sworn (or affirmed) deposes and says that they were the circulator of the foregoing petition paper containing signatures, and that the signatures appended thereto were made in his presence, and are the signatures of the persons whose names they purport to be, and that they verily believe the residence of each signer thereof to be truly stated, and that all of said signers are entitled to vote at the regular municipal election referred to in said paper; and, in case the petition is nominating a candidate for councilman to be elected from a specific district by district voting, that each signer of said petition is a resident of the same city election district in which the nominee resides.

(Signed)_____
Subscribed and sworn to (or affirmed) before me this _____ day of _____
_____ Justice of the Peace (or Notary Public)
(Amd. of 7-12-2005 (S.B. 126))

Sec. 8. ~~Time and place of elections;~~ Election board; counting of votes; determination of winners; tie votes; persons eligible to vote; voter registration; official ballots and voting machines; absentee ballots.

~~**The regular municipal election shall be held annually on the third Tuesday of April. At each such regular municipal election, the polls shall be opened at 7:00 a.m. and closed at 8:00 p.m. The council may designate the places of election and make all necessary rules and regulations not inconsistent with this Charter or with other laws of the State of Delaware for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud.**~~

(Staff moved to Section 6. Municipal election; dates, time, and place of elections. Combined to eliminate duplicate language.)

There is hereby created an election board which shall be a non-elected body to oversee the municipal elections, as well as to serve as an advisory board to Council on such matters as voter registration, municipal elections, election rules and regulations, and polling locations for City elections. The board shall be composed of five (5) members, serving three (3) years terms, to be appointed by the Mayor and confirmed by council at the Annual Meeting, or as necessary to fill vacancies as they occur. One member shall be appointed from each district into which the city has been divided for election purposes, and one member shall be appointed on an at-large basis. The City Clerk shall serve as a liaison member of the board. Upon expiration of the term of appointment, a member shall serve until his/her successor has been duly appointed. If a vacancy occurs during the term of any member of the election board, a person residing in the same numbered district shall be appointed to fill the remainder of said term. Members serve without salary, but shall be paid a per diem allowance as specified by City ordinances.

To be eligible for appointment to the election board, each prospective member shall be a citizen of the United States, a registered voter within the City, and have resided within the geographical boundaries of the City for one year preceding the appointment. The Mayor and members of Council, their parents, spouse, or children, shall not be eligible for appointment to the election board.

(By Resolution Adopted November 12, 1990)

All elections shall be held by ~~an~~ ***the*** election board. The City Clerk may designate such other persons as he shall deem necessary to assist the members of the election board in the conduct of the election and counting of the ballots. Should any or all of the members of the election board be absent from the place of election at 7:00 a.m. on the day of the election or fail or neglect to act in the conduct of such election during the time the polls are open and until the ballots are counted and the results of the election certified, the voters of the city present at such time may choose from the qualified voters of the city such person or persons as shall he necessary to fill places made vacant by the absence or neglect aforesaid.

When the polls are closed, the election board shall publicly count the votes and shall certify the results of the election to each of the persons selected and to the council. The candidate for the office of mayor who receives the highest number of votes cast for that office shall be declared to be elected mayor; the candidate for the office of at-large councilman who receives the highest number of votes cast for that office shall be declared to be elected at-large councilman; and the candidates for the offices of councilmen from each district who receive the highest number of votes cast by voters who reside in that district and cast votes for councilmen of that district shall be declared to be elected to that office. In the event of a tie vote for any office, a special election for said office(s) only shall be held within 30 days and the registration books shall remain closed until the outcome of the special election is determined.

Every resident of the City of Dover who shall have reached the age of 18 years by the time of the election and who is properly registered to vote shall be entitled to vote at all regular or special municipal elections. A voter will be considered properly registered to vote if they are properly registered to vote for state elections in accordance with Title 15 of the Delaware Code as amended. The council shall provide for the use of voting machines in all regular and special municipal elections in conformity with Title 15 of the Delaware Code by ordinance duly adopted by council. Voting machines shall be used in accordance with Title 15 of the Delaware Code and by ordinance duly adopted by council. The names of the candidates for each office shall be listed in alphabetical order on the voting machines under the name of the office to which they seek election. The voters shall designate their choice of candidates in accordance with the regular method of operation of voting machines. The council may provide sample ballots plainly marked as such and printed on paper of any color except white to be distributed to any voter or candidate who requests them prior to or during the election.

Any qualified voter, duly registered, who shall be unable to appear to cast their ballot at any election either because of being in the public service of the United States or of this state, or because they will be unavoidably absent from the city on the day of the election, or because of his sickness or physical disability may cast a ballot at such election by absentee ballot to be counted in the total of such election. The council may provide the rules and regulations for such absentee voting by ordinance for all elections.

(Amd. of 7-12-2005 (S.B. 126))

Sec. 9. Meetings of mayor and council--Generally.

At 7:30 p.m. on the second Monday in May following a regular municipal election, the mayor and council shall meet at the usual place for holding council meetings and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity.

Such meeting shall be called or known as the annual meeting. Thereafter, the council shall hold regular meetings at such times as may be prescribed by ordinance, but not less frequently than once each month. Special meetings may be called and held as prescribed by ordinance. All meetings of the council shall be open to the public except scheduled executive sessions.

At the annual meeting held on the second Monday in May, the members of council shall elect one of their members to serve as council president, such term to be in effect until the next regularly scheduled annual meeting or until a successor is elected. The council president shall serve as vice-mayor. Council president shall preside over regular and special council meetings.

The mayor shall preside over the annual meeting and quarterly town meetings, and at the annual meeting present a state of the city message and offer mayoral appointments for council confirmation. The mayor, upon recommendation from the council president, will present council appointments for council approval.

In the event of absence of the council president, then the senior member of council in terms of length of service as a councilman shall assume the duties of the council president and shall be designated council president acting. In the event that two or more members of council have the same seniority in terms of length of service as a councilman, then the members of council shall vote and elect one of those as council president acting. Council president acting shall fulfill all of the duties and responsibilities of council president during his period of unavailability or absence.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 10. Meetings of mayor and council--Procedure.

Five of the members elected to the council shall constitute a quorum to do business, but a less number may adjourn 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.

No ordinance, resolution, motion or order shall be valid unless it shall have (1) the affirmative vote of a majority of the members elected to the council, and (2) the written approval of the mayor, or the vice-mayor in those cases where the vice-mayor is authorized to act as mayor as provided in section 15 hereof, provided that in the absence of such approval by the mayor, or the vice-mayor as the case may be, the council may, after not less than seven days nor more than 35 days after the prior vote, pass or adopt the said ordinance, resolution, motion or order which did not receive the approval of the mayor, or the vice-mayor, by the affirmative vote of two-thirds of the members elected to council.

Whenever the council shall adopt an ordinance, resolution, motion or order, it shall be the duty of the mayor, or the vice-mayor, to signify his/her approval or disapproval thereof in writing to the clerk of the council within seven days thereafter. The clerk of the council shall forthwith notify the members of the council of such approval or disapproval.

Motions to adjourn meetings of council and orders to compel the attendance of absent members shall not require the approval of the mayor or vice-mayor.

A councilman ~~***may***~~ ***shall*** abstain from voting on a matter that he feels would involve the consideration of his own official conduct, on a matter in which he has a financial interest, in a matter

in which he has a conflict of interest or in accordance with a policy adopted by council.

The yeas and nays shall be taken upon the passage of every ordinance and resolution and entered together with the text of the ordinance or resolution upon the journal of the proceedings of the council. The journal shall be deemed conclusive evidence of the facts stated therein except in the case of fraud.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

(1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office, or agency;
(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
(3) Levy taxes;
(4) Grant, renew, or extend a franchise;
(5) Regulate the rate charged for its services by a public utility;
(6) Authorize the borrowing of money;
(7) Convey or lease or authorize the conveyance or lease of any lands of the city;
(8) Regulate land use and development;
(9) Amend or repeal any ordinance previously adopted; or
(10) Adopt, with or without amendment, ordinances proposed under the initiative power.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

(Strikeout advised by Deputy City Solicitor Pepper - traditionally done by Resolution)

The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk.

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.
(Amd. of 7-12-2005 (S.B. 126))

(Amendment Adopted by Council 5/27/2008)

Sec. 11. Council to be judge of election results and qualification of members; power to fix procedure.

The council shall be the judge of the election results and qualification of its members and, in such cases, shall have power to subpoena witnesses and compel the production of all pertinent books, records and papers; but the decision of the council in any such case shall be subject to review by the courts. The holding over members shall constitute the council for the purpose of determining election contests. The council shall determine its own rules and order of business and keep a journal of its proceedings. It shall have power to compel the attendance of absent members, and may punish its members for disorderly behavior.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 12. ***Compensation; Expenses*****–Mayor, council members, and other elected or appointed officials.** ~~***Compensation and expenses--Mayor and council and other elected or appointed officials.***~~

The city council **shall** ~~***may***~~ ***determine the annual salary and emoluments of the mayor,*** ~~***and***~~ ***council members, and other elected or appointed officials by ordinance, but no ordinance increasing the salary of the mayor or city council members*** ~~***such salary***~~ ***shall become effective until the date of commencement of the terms of the mayor or council members elected at the next regular election. The mayor and council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.***

~~***The council shall determine the annual salary and emoluments of the mayor and council and other elected or appointed officials by ordinance. Members of the council, the mayor and other elected or appointed officials shall receive reimbursement for actual and necessary expenses incurred when on official business as prescribed by city ordinance or policy.***~~
(Amd. of 7-12-2005 (S.B. 126))

(Amendment adopted by Council 12/10/2007 with recommendation that a Resolution be adopted establishing the Compensation Commission (see attached Res. No. 2009-10). Staff recommends instead an ordinance amending Article IV. Officers and Employees, Division 1. Generally, Sec. 2-201. Compensation and expenses for mayor, council, employees and other elected or appointed officials, to include Compensation Commission (see Ordinance 2009-04 below). Black text suggested by Deputy City Solicitor)

CITY OF DOVER PROPOSED ORDINANCE #2009-04

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 2 - Administration, Article IV - Officers and Employees, Division 1 - Generally, Section 2-201 - Compensation and expenses for mayor, council, employees and other elected or appointed officials, be amended by inserting the text indicated in bold, blue, italics and deleting the text indicated in red strikeout as follows:

Sec. 2-201. Compensation and expenses for mayor, council, employees and other elected or appointed officials.

A. In accordance with section 12 of the Charter, authorizing the council to establish compensation and expenses for the mayor and councilmembers, city employees and other elected or appointed officials, the following fees are hereby established:

(1) Mayor. The mayor shall receive an annual salary of $45,000.00. In addition, the mayor shall receive an expense allotment of up to $5,000.00, to be included in the city's annual budget, for miscellaneous expenses, to be reimbursed upon submission of receipts or proper documentation. Expenses in excess of this amount shall only be permitted by council approval. The mayor shall be entitled to all benefits customary to an employee of the city, except pension benefits, and sick and vacation leave.

(2) Councilmembers generally. Each councilmember shall receive an annual salary of $7,416.00, to be paid monthly. The council president shall receive an annual salary of $8,652.00, to be paid monthly. Councilmembers shall receive reimbursement for actual and necessary expenses incurred when on official business as prescribed by ordinance or policy.

(3) Councilmembers hearing appeals. Members of the council sitting to hear appeals from the municipal assessment shall receive $50.00 for per diem reimbursement for expenses for the preparation and attendance of each meeting of the assessment appeals committee.

(4) Nonemployee election officers. Each person not a city employee appointed to serve as an election judge for any municipal election shall receive $200.00 for per diem reimbursement for each election attended. Each person chosen to serve as a clerical assistant for any municipal election shall receive $150.00 for per diem reimbursement for each election attended.

(5) Employee election officers. Employees of the city appointed to serve as election judges or officials for any municipal election shall receive $150.00 for per diem reimbursement for expenses for each municipal election attended in addition to their regular salary.

(6) Appointee to council committee. Each appointed member to any city council committee, not serving an elected term to any city office, shall receive $75.00 for preparation and attendance at each committee meeting to which the member is appointed.

(7) Employee on council committee. For any city employee appointed to a council committee shall receive $25.00 for reimbursement for expenses per diem for each meeting attended which is held after 5:00 p.m. on a scheduled workday or at any time on a weekend or city-approved holiday.

(8) Planning commission. Each appointed member of the planning commission shall receive $100.00 per diem reimbursement for expenses to be paid monthly for preparation and attendance at each meeting of the planning commission.

(9) Board of adjustment. Each appointed member of the board of adjustments shall receive $75.00 per diem reimbursement for expenses to be paid monthly for preparation and attendance at each meeting of the board of adjustment, to become effective July 1, 2007.

B. Compensation commission.

There is hereby created a compensation commission to consider compensation for the Mayor, City Council, and paid members of City committees and commissions. The compensation commission shall consist of five (5) members, one (1) member appointed by the Mayor, one (1) member appointed by the Council President, and three (3) members appointed by City Council during the Annual Meeting. Members shall be City residents who are registered to vote in City elections. Members shall serve two (2) year terms and cannot be re-appointed within the next two (2) years. The Finance Director and Human Resources Director shall serve as ex-officio, non-voting members.

The compensation commission shall meet as needed, with a report due to Council six (6) months prior to the regular municipal election. ~~with~~ At least one (1) public hearing shall be held prior to their submission of the report to Council. Upon receiving the resolution of the commission, the city council may reduce or reject the commission's recommendation, but it may not increase any item in the resolution. The recommendations contained in the resolution, and any permitted changes to such recommendations, shall not become effective unless adopted by ordinance enacted at least three (3) months prior to the elections of the next succeeding Mayor and Council, and shall take effect only for the next succeeding terms of office of the Mayor and Council.

Charter references: Mayor and Council, subpart A, § 12.
(Strikeout and black, italic text advised by Deputy City Solicitor Pepper)

SYNOPSIS

The amendment creates a compensation commission to consider compensation for the Mayor, City Council, and paid members of City committees and commissions.

Actions History
February 23, 2009 - Introduced at LF&A Committee

Sec. 13. ***Vacancies; forfeiture of Office; Filling of Vacancies*** ~~**Filling vacancies for council or mayor.**~~

(a) Vacancies. The office of a council member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. A council member shall forfeit that office if the council member:

- ***(1) Fails to meet the residency requirements,***
- ***(2) Violates any express prohibition of this charter,***
- ***(3) Is convicted of a crime involving moral turpitude, or***
- ***(4) Fails to attend three consecutive regular meetings of the council without being excused by the council.***

~~**The loss of residence in the city, the loss of residence in the state, the removal from the district where the member resided at the time of the member's election, in the case of a councilman, or the conviction of any crime involving moral turpitude during the term for which the**~~

~~**member was elected, shall create a vacancy in the office either of mayor or councilman.**~~ In the case of any such vacancy or of any vacancy created by death, resignation or otherwise for which said vacancy shall be less than six months in duration, the ~~**council shall fill such vacancy**~~ ***office shall remain vacant***. If such vacancy should be in excess of six months in duration, a special election shall be held to fill such vacancy, this special election to be held no sooner than 30 days from the date of the vacancy, but said special election to be held no later than 60 days after the date of the vacancy. ***If council fails to call for a Special Election, the Special Election shall be called by the Election Board.***
(Amd. of 7-12-2005 (S.B. 126))

(Amendment Adopted by Council 1/28/2008 and 3/24/2008)

Sec. 14. Duties of mayor.

The mayor shall be the executive and chief official of the city. The mayor shall have the powers and perform the duties conferred and imposed by this Charter and ordinances of the city. The mayor shall preside at the annual meeting of the council and at all quarterly town meetings. The council president shall preside at all other meetings of the council. The mayor shall have no vote on council matters of any nature whatsoever. The mayor is an ex officio member of all committees, but shall have no vote.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 15. Council president/vice-mayor, duties of.

At each annual meeting, the council shall elect one of their number as council president who shall also serve as vice-mayor. During a vacancy in the office of mayor or during the absence or disability of the mayor, the vice-mayor shall have all the powers and duties of the mayor, except as hereinafter provided. The council president and vice-mayor shall retain his/her right to vote as councilman at all times although he/she may be acting as the mayor, unless the mayors absence appears to be indefinite or extended, in which case council shall pass a resolution appointing the vice-mayor as mayor until the mayor's position is either filled in accordance with section 13 hereof or the mayor returns to his/her duties, which resolution shall provide that the vice-mayor shall have the right to approve or disapprove council action in accordance with section 10 hereof, in which case the vice-mayor shall lose his/her vote as councilman until further action is taken by council.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 16. *City* Clerk ~~of council~~.

The city council shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this charter or ordinance or by the council or by state law.

~~***The council shall choose a clerk, who shall keep a record of the proceedings of the council and perform such other duties and have such powers as may be prescribed by ordinance.***~~
(Amd. of 7-12-2005 (S.B. 126))

(Amendment Adopted by Council 3/24//2008)

Sec. 17. ~~City~~ *Controller/*treasurer.

At the annual meeting the council shall elect a ~~**city**~~ ***controller/***treasurer to hold office until the next annual meeting of the council, or until his/her successor has been duly chosen and qualified, but subject to removal at any time by the council.

The ~~city~~ ***controller/***treasurer shall be the custodian of all the city funds and shall deposit them in a banking institution designated by the council.
(Amd. of 7-12-2005 (S.B. 126))
(Amendment Adopted by Council 3/24//2008)

Sec. 18. Ordinances authorized; maximum penalty for violation.

The council is hereby vested with the authority to adopt ordinances of every kind relating to any subject coming within the powers and functions of the city, or relating to the government of the city, its peace and order, its sanitation, appearance and beauty, the health, safety, convenience and comfort of its population, and the protection and preservation of property, and to fix and impose and enforce the payment of, fines and penalties for the violation of any such ordinance; ***~~provided that no fine or penalty shall exceed the sum of $1,000.00;~~ as penalties will be provided by the Code*** and no provision in this Charter as to ordinances on any particular subject shall be deemed or held to he restrictive of the power to adopt ordinances on any subject not specifically enumerated.
(Amd. of 7-12-2005 (S.B. 126))

(Note from Deputy City Solicitor Pepper: I am not sure that a $1000 cap on fines is appropriate. Fines need to be high enough that they deter bad conduct and are not simply a cost of doing business. Consideration might be given to removing "provided that no fine or penalty shall exceed the sum of $1,000.00") (Legislative, Finance, and Administration Committee recommended approval of amendment on 2/23/09)

Sec. 19. Power of council to define and abate nuisances.

The council shall have power to define nuisances and cause their abatement. The operation of any instrument, device, or machine of any kind whatsoever, that shall cause electrical interference with radio or television reception within the limits of the city shall, at the option of the council, be deemed to be a nuisance.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 20. Power of council to provide for fire protection measures.

The council shall have power to adopt all measures requisite or appropriate for protection against fire. To this end the council may adopt ordinances prohibiting the use of building materials that the council deem would create a fire hazard, and may zone or district the city and make particular provisions for particular zones or districts with regard to buildings and building materials. This power shall be deemed to embrace new buildings or additions to or alterations of existing structures of every kind. The council shall have the power to condemn any building or structure or portion thereof that it deems to be a health hazard or constitutes a fire menace or to require or cause the same to be torn down, removed, or so altered as to eliminate the health hazard or menace of fire.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 21. Power of council to adopt zoning ordinances.

The council may adopt zoning ordinances limiting and restricting to specified districts, and regulating therein, buildings and structures according to their construction and the nature and extent of their use.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 22. Power of council to regulate construction of buildings and require permits; building inspector authorized.

The power of the council to adopt ordinances for the safety of the city and its population shall be deemed to embrace the right to prescribe the height and thickness of the walls of any building and the kind and grade of materials used in the construction thereof.

The council may provide for the issuance of building permits and forbid the construction of a new building or the addition to or alteration and repair of an existing building except when a building permit has been obtained therefore. The council may appoint a building inspector and prescribe his/her powers and duties.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 23. Power of council to create city planning commission; members generally.

The council may create a city planning commission for the development, improvement, and beautification of the city, and prescribe its powers and duties. No member of the planning commission may hold at the same time, any elected city office.

Members of any planning commission created by the city shall consist of two members from each council district and one member serving at large.

All members of the planning commission must be residents of the City of Dover.

Each appointed member of the commission shall receive per diem reimbursement for expenses to be paid quarterly for preparation and attendance at each meeting of the planning commission attended in an amount to be set by council.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 24. Power of council to franchise or license public utilities and common carriers.

The council shall have the right to grant or refuse franchises or licenses to public utilities and common carriers and fix the terms and conditions thereof and to regulate their use of the streets, lanes, alleys, rights-of-way, and air space or airways of the city.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 25. Power of council to operate light, power or water plant.

The council shall have power to operate a light, power and water plant for the city, and to do all things necessary for its maintenance and operation. The council may at their option transmit electric current and or water from its said plant to places or properties outside of the city limits upon such

terms, charges and conditions as they shall determine.

The council shall have power to adopt ordinances, rules and regulations in regard to the use for public or private purposes of electric current distributed and or water furnished by the city and the amount to be paid by the users thereof, and fix fines and penalties for any willful or negligent injury or damage to its water and light plant, and to any objectionable use in connection with its light and water system, and to any interference with or obstruction of the said system.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 26. Power of council with reference to sewers.

The council shall have superintendence and supervision of the sewers and the sewer system of the city. They shall have power to install any or additional sewers in the city. The council may by condemnation proceedings take for sewer purposes, private land, or the right to use private land under the surface thereof, for the laying of sewer mains. The proceedings by condemnation under this section shall be the same as prescribed by section 27 of this Charter with regard to the laying out of new streets, and the resolutions referred to in said section shall be modified to cover the case contemplated by this present section.

The council shall have power to make all ordinances, rules and regulations regarding the sewers and sewer system of the city and the use thereof, and may fix fines and penalties for the violation of the provisions of such ordinances. The council may require any property in the city to be connected with the water and sewer mains and to compel the owner of such property to pay the cost of such connection and the tapping fee or charge therefore. The connecting with the water or sewer mains and the tapping thereof shall be under the regulation and control of the council.

The council may extend the sewer system of the city to places outside of the city limits upon such terms, charges and conditions as it shall determine.

The council is hereby authorized to impose a charge or rent for the use of the sewer system of the city, both within and without the limits of the city, and in addition to the connection or tapping charges.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 27. Power of council to layout, locate, abandon, etc., streets, sidewalks, etc.

The council shall have power and authority to lay out, locate, accept, and open new streets and to widen and to alter existing streets or parts thereof, and to vacate or abandon streets or parts thereof, whenever they shall deem it for the best interest of the city.

Whenever, the land comprehended or included in any street, or part thereof, vacated or abandoned under this section is owned by the city, the council may, in their discretion, sell such land either at private or public sale and for such consideration as the council shall deem proper, and shall have the right and power to convey to the purchaser or purchasers thereof a good and sufficient title thereto. The word "street" shall be deemed and held to comprehend and include sidewalks, lanes and alleys.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 28. Power of council to pave streets, sidewalks, etc. and levy assessment for public improvements; municipal lien docket.

The council shall have power to pave or repave, or to cause to be paved, or repaved, the streets and sidewalks of the city, or any part or portion thereof, with such material or materials as it shall determine.

The power hereby conferred shall be exercised in the following manner, to wit:

SIDEWALKS

A. The city council, at such time as it shall determine that the condition or conditions of a particular street or streets, or portion thereof, requires that sidewalks be laid, or that the sidewalks then existing, if there be sidewalks laid, should be improved, or upon the petition of a majority of persons owning property along any of the streets, or a portion of any of the streets of the said city, asking that the sidewalks abutting on said street or streets, be improved, or that sidewalks be laid where there are none at the time of the filing of the petition, may direct the property owner or owners to lay or replace sidewalks with such material or materials, as, in the judgment of the said council of the City of Dover, may seem best under the circumstances.

It shall be the duty of the city manager to give at least 15 days' notice in writing to the owner or owners of the property affected by the action of the said council. Said notices shall be served in the manner following: A copy thereof shall be delivered personally to the owner or owners of said property, or a copy thereof shall be left with the tenant in possession of the property, or a copy thereof shall be sent by registered mail to the last known post office address of the owner or owners of the said property or properties so affected. Service of such notice by either of said methods shall be sufficient to bind the owner or owners under the provisions of this Charter.

It shall be the duty of the owner or owners, after notice shall have been given in either of the ways above designated, to forthwith cause the said sidewalks to be laid or the improvement or alterations thereof to be made, as directed in said notice.

Upon the failure of the owner or owners to lay or cause to be laid or improved or altered, the sidewalks or portion thereof, according to the direction of said notice, it shall be the duty of the city manager to cause the said sidewalks to be laid or altered or improved, as the case may be, according to the terms of such notice.

STREETS

B. The council shall adopt an ordinance or resolution stating, in effect, that on a named day and at a named hour and place, the council will meet to consider the question of paving or repaving, with specified material or materials, the named street in front of the property of named owners, and, of assessing the cost thereof against the owners. Said ordinance or resolution shall be published at least one week prior to the meeting aforesaid in at least one issue of a newspaper published in the city. The council shall hold a meeting in accordance with said ordinance or resolution and shall hear thereat the named owners of property and other residents of the city appearing on the questions presented in said ordinance or resolution.

After such hearing, the council shall decide, either at said meeting or at a subsequent meeting, whether or not to proceed with the paving or repaving specified in said ordinance or resolution; provided, however, that the council shall not proceed with such improvement if, at or prior to the hearing aforesaid, the council shall be presented with a written objection thereto signed by a majority of the owners of real property in front of which such paving or repaving was contemplated. The provisions of this subsection, relating to the paving or repaving of streets, shall be deemed to apply to and include curbs and gutters.

SPECIAL ASSESSMENTS

C. The city shall have the authority to levy and collect special assessments upon property in a limited and determinable area for special benefits accruing to such property as a consequence of any municipal public work or improvement, and to provide for the payment of all, or any part of, the cost of the work, service or improvement out of the proceeds of such special assessments.

When the term "owner" or "owners" is used with respect to special assessments, it shall be deemed to mean the person or persons who owned the property in question at the time of the enactment of the assessment ordinance, and, any change in ownership thereafter shall not be deemed to affect any of the steps or proceedings described in this Charter with respect to special assessments.

The council shall also have the authority to enact ordinances which provide for the levy and collection of assessments against property owners for the cost of installation of sanitary sewers, storm sewers, water mains, streets, sidewalks, street lights, curbs, gutters and other public improvements.

Such ordinances shall prescribe:
(1) The basis to determine the amount which shall be assessed upon the properties abutting the public work or improvement;
(2) What portion of corner properties shall be considered frontage and what portion side frontage and whether there shall be any exemption on side frontage;
(3) Payment provisions providing for payment in installments, except that assessments for current services or service connections shall be payable within one year; and
(4) Rules under which individual appeals shall be heard.
All special assessments and all water and sewer service charges shall be liens and shall be entered in the municipal lien docket as liens.

The council may provide for the payment of special assessments for whatever purpose levied by installments, but assessments for permanent improvements shall be paid in annual or more frequent installments, and, assessments for current services shall be payable within one year.

MUNICIPAL LIEN DOCKET

D. A docket known as the City of Dover Municipal Lien Docket shall be prepared and maintained by the city manager. The docket shall be substantially the same in form as the judgment docket for Kent County and shall contain an index according to the name of the owner against whom such lien has been assessed. All taxes and all charges for water service, sewer service, garbage service, electric service, grass cutting services and debris removal, dangerous building ordinance costs and assessments, special assessments for municipal improvements of any nature, and all other

charges or assessments made by the city against property owners may be recorded in the municipal lien docket and shall be and constitute a lien upon all of the real estate of the taxable against or upon whom such taxes and/or charges are laid or imposed, of which such taxable was seized at any time after such taxes and/or charges have been levied and imposed, situate in the City of Dover. All liens so recorded shall continue in full force and effect until the same plus accrued costs have been paid in full. Upon payment in full of the lien and all costs, it shall be the duty of the city manager to enter forthwith upon the docket the date of final payment and the words 'satisfied in full." Failure to record liens in the municipal lien docket shall not affect liens otherwise provided for in 25 Del. section 2901, et seq.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 29. Streets, sidewalks, etc. to be under control of council; power of council to prescribe grades thereon and regulate.

The streets, sidewalks, lanes and alleys in the city shall be under the supervision, management and control of the council, and the council may prescribe the grades thereof and adopt ordinances regulating the use thereof and the traffic thereon.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 30. Power of council to provide for disposal of garbage and sewage.

The council shall have power to provide for the incineration or other sanitary disposal of litter, debris, refuse, garbage and sewage.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 31. Power of council to regulate parking and provide parking lots.

The council shall have power to adopt ordinances regulating the parking of automobiles and motor vehicles within the city, and may lease or purchase land to be used for parking purposes.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 32. Council to determine salaries of city appointees and employees.

The salaries or emoluments of all city appointees and city employees shall be determined by the council through the pay system and collective bargaining agreements as amended.
(Amd. of 7-12-2005 (S.B. 126))

ARTICLE III. CITY MANAGER

Sec. 33. The city manager generally.

The council shall appoint a city manager who shall be the chief administrative officer of the city. The city manager need not, when appointed, be a resident of the city or the state. No member of the council shall, during the time for which elected, be chosen as city manager. The manager shall be appointed for an indefinite term but shall be removable at the pleasure of the council. Before the manager may be removed he/she shall, if he/she so demand, be given a written statement of the reasons alleged for his/her removal and the right to be heard publicly thereon at a meeting of the council prior to the final vote on the question of his/her removal, but pending and during such

hearing the council may suspend him/her from office. The action of the council in suspending or removing the manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the council. In case of the absence or disability of the manager the council may designate some qualified person to perform the duties of the office during such absence or disability.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 34. Responsibility of manager; powers of appointment and removal.

The city manager shall be responsible to the council for the proper administration of all affairs of the city placed in his/her charge, and to that end, except as otherwise provided herein, he/she shall have the power to appoint and remove all employees in the administrative service of the affairs of the city under his/her charge. All such appointment shall be without definite term.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 35. ~~Removal of employees by manager.~~ ***Appointments and Removals.***

~~**Employees appointed by the city manager, or under his/her authorization, may be removed by him/her at any time. The decision of the manager in any such case shall be final and there shall be no appeal therefrom to any other officer, body or court whatsoever.**~~
Neither the city council nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the city manager or any subordinate of the city manager is empowered to appoint, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees. The city administrative officers and employees can be assured of due process in accordance with 19 Del. C.
(Amd. of 7-12-2005 (S.B. 126))

(Amendment Adopted by Council 12/10/2007)

Sec. 36. ~~Council not to interfere with appointments or removals of manager; giving orders to subordinates of manager prohibited; penalty for same.~~ ***Interference with Administration.***

Except for the purpose of inquiries, and investigations by council under Sec. 39, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

~~**Neither the council nor any of its committees or members shall direct or request the appointment of any person to, or removal from, office by the city manager or any of his/her subordinates, or in any manner take part in the appointment or removal of employees in the administrative service of the affairs of the city under the charge of the manager. Except for the purpose of inquiry, the council and its members shall deal with that portion of the administrative service for which the manager is responsible solely through the manager, and neither the council nor any member thereof shall give orders to any subordinate of the city under the city manager either publicly or privately. Any violation of the provisions of this section by a member of the council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the member so convicted.**~~

(Amd. of 7-12-2005 (S.B. 126))
(Amendment Adopted by Council 1/28/2008)

Sec. 37. Duties of the manager.

It shall be the duty of the city manager to supervise the administration of the affairs of the city under his/her charge; to make such recommendations to the council concerning the affairs of the city as may seem to him/her desirable; to keep the council advised of the financial conditions and future needs of the city; to prepare and submit to the council the annual budget estimate; to prepare and submit to the council such reports as may be required by that body; and to perform such other duties as may be prescribed by this Charter or required of him/her by ordinance or resolution of the council.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 38. Right of manager to sit in council meetings.

The city manager and such other officers of the city as may be designated by vote of the council, shall be entitled to seats in the council, but shall have no vote therein.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 39. Investigations ~~by council~~.

The city council may make investigations into the affairs of the city and the conduct of any city department, office, officer, employee, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a Class A misdemeanor punishable by existing State Law.

~~**The council shall have power to inquire into the conduct of any office, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence.**~~
(Amd. of 7-12-2005 (S.B. 126))

(Amendment Adopted by Council 3/24/2008)

Sec. 40. Other functions of city manager.

The city manager shall have charge of the light and water plant operated by the city, and of the light and water and sewer systems of the city. The city manager shall have charge of the supervision of the streets, gutters, curbs and sidewalks of the city and of all work relating thereto. The city manager shall have charge of the administration of all provisions of this Charter and ordinances and regulations of the council relating to affairs of the city, when not otherwise provided for by this Charter or by any ordinance or resolution of the council. The city manager shall ex officio be the collector of taxes for the city. It shall be his/her duty to collect all water rents and fees for the tapping of water mains and sewers, all charges for electric current and all city revenue from any source whatsoever. The city manager shall pay over to the ~~**city**~~ ***controller/***treasurer at least monthly, and oftener if required by council, all moneys received or collected by him/her and by any employee under him/her.

The city manager shall keep a full and strict account of all moneys received and all transfers made by him/her to the ~~city~~ *controller/*treasurer and such accounts shall be at all times open to inspection by the council. The city manager shall make such reports and at such times as the council shall direct.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 41.

This section has been intentionally left blank.

ARTICLE IV. FINANCIAL AFFAIRS

Sec. 42. Signing of warrants.

The ~~city~~ *controller/*treasurer shall pay out no money except upon warrant signed by the city manager and countersigned by the mayor.

The mayor and the city manager shall sign no warrants on the ~~city~~ *controller/*treasurer except pursuant to appropriations or resolutions theretofore made by the council.

The ~~city~~ *controller/*treasurer shall keep a true and detailed account of all moneys received and of all moneys paid out by him/her.~~530~~ The ~~City~~ *controller/*treasurer shall preserve all vouchers for moneys paid by him/her. His/her books and accounts shall at all times be open to inspection by the council or the mayor or the city manager.

The ~~city~~ *controller/*treasurer shall make such reports and at such times as the council may direct.

The ~~city~~ *controller/*treasurer shall be required to give bond in such amount and in such form and with such surety as the council shall determine or approve.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 43. Fiscal year.

The fiscal year of the city shall begin the first day of July and shall end with the next succeeding thirtieth day of June.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 44. Annual budget.

On or before the second Monday of May of each year, the city manager shall prepare and submit to the council, a budget, presenting a financial plan for conducting the affairs of the city for the ensuing fiscal year. The total of proposed expenditures shall not exceed the total of anticipated income.

The budget shall include the following information:

1. A detailed statement showing the expenses of conducting each department and office of the city for the current year and last preceding fiscal year.

2. A detailed estimate of the expenses of conducting each department and office of the city for the ensuing fiscal year with reasons for the increases and decreases recommended.

3. The amount of the debt of the city together with a schedule of maturities of bond issues.

4. A statement showing the amount required for interest on the city debt and for paying off any bonds maturing during the year and the amount required for the sinking fund.

5. An itemized statement of all anticipated income of the city with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal years.

6. An estimate of the amount of money to be received from taxes.

7. Such other information as the city manager may think desirable or as may be required by the council.

The council shall on or before the second Monday in the month of June in each year adopt a budget for the succeeding fiscal year. The council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 45. Payment of claims; issuance of warrants after approval of city manager; reports by manager thereon to council.

No claim against the city shall be paid except on an order on the ***controller/***treasurer, signed by the city manager, and approved and countersigned by the mayor. The city manager shall examine all payrolls, bills and other claims and demands against the city and shall issue no warrant for payment, unless he/she finds that the claim is proper and in proper form and correctly computed.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 46. Annual audit.

Annually in the month of July the council shall have the finances of the city and the books and accounts of the city manager and the ~~**city**~~ ***controller/***treasurer audited by a certified accountant.

As soon as practicable after such audit has been completed, the council shall cause to be made and published a report of the city's finances for the preceding fiscal year.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 47. General assessment; levy on utility property.

The City shall cause to be made a true, just, and impartial valuation and assessment of all real property within the city, locating each parcel of real property by street and number or other description. The valuation and assessment shall be made every three years by an assessor or assessors who shall be elected by the Council at its annual meeting by majority vote thereof. ~~**An assessor must be a freeholder within the corporate limits of the city.**~~ Before entering upon the duties of office, an assessor shall be sworn or affirmed by the Mayor to perform the duties of the

assessor's office with fidelity and without favor or partiality.

Whenever Council shall direct, **as set forth in the City Ordinance Section 102-1,** all real property in the City of Dover shall be assessed by ~~a certified independent~~ **an** outside appraiser chosen by Council **every three (3) years**. This assessment shall be in lieu of the valuation and assessment made by ~~a freeholder~~ **an** assessor elected by Council as described hereinabove and in lieu of the assessor's duties described hereinabove.

In addition to ~~an~~ **the annual** assessment ~~every three years~~, the assessor or assessors shall include supplemental assessments made annually for the purposes of (1) adding property not included in the last assessment or (2) increasing or decreasing the assessment value of property which was included in the last ~~general~~ **annual** assessment.

~~**The assessment made every three years and any supplemental assessments made annually shall be made prior to the first day of May in any given year and shall be known as the general assessment.**~~

The annual assessment date for all real property shall be January 1st of each year. The assessment of all property shall be at its true value in money as of the assessment date. True value in money shall be the fair market value.

The general assessment shall be set down by the assessor or assessors in two (2) or more copies, as the Council shall direct, and shall be delivered to the Council as soon as made. The Council shall, ~~prior to the fifteenth day of May~~ **on the first day of April** of each year, cause a copy of the general assessment to be posted in two (2) public places in the city for ten (10) days. **The assessor shall notify the public of an appeal deadline of thirty (30) days from the date of general assessment posting.**

The Council may direct that appeals from any ~~general~~ assessment be heard by a committee**, known as the Board of Assessment Appeals,** of not less than three (3) ~~Council~~ members appointed by the Council ~~president~~. The ~~committee of Council members~~ **Board of Assessment Appeals** shall sit at a stated place and time to hear the appeals of all taxpayers dissatisfied with the assessment of their properties, shall collect such information as they consider proper and necessary, and shall report their findings ~~**and recommendations to a meeting of the full Council. At the meeting of the full Council the recommendations of the committee shall be received, together with such other information as the Council shall permit or require, and the appeal of each dissatisfied taxpayer shall be heard. The Council shall have full power to correct, revise, alter, add to, deduct, and take from the general assessment. The decision of a majority of the Council members elected shall be final and conclusive. A Council member may not vote on his or her own appeal.**~~

Notice of the place and time that ~~a committee of Council members~~ the **Board of Assessment Appeals** will sit to hear appeals ~~**and of the place and time that the full Council will sit to act on such appeals**~~ shall be posted with the general assessment in two (2) public places for a period of ten (10) days. Notice of the posting of the copies of the general assessment and of the place and time of the meetings of the ~~committee of Council members~~ **Board of Assessment Appeals** ~~**and of the full Council to hear appeals**~~ shall be published in at least one issue of a newspaper published in the city.

The assessment as revised and adjusted by the ~~Council~~ **Board of Assessment Appeals or Superior**

Court shall be the basis for the levy and collection of taxes for the city.

The Council shall have the right to levy and collect taxes on gas mains, telephone, telegraph, communications systems, or trolley poles or other erection of like character within the limits of the city, together with the wires thereon strung; and to this end the Council may at any time direct the same to be included in or added to the general assessment.

Nothing contained in this section shall be deemed or held to invalidate or otherwise effect any assessment made prior to the approval of this section or any tax levied thereunder.

Sec. 48. Maximum budget.

The council shall in the month of June of each year determine the amount of money to be raised for the city for general purposes for the next fiscal year not exceeding two percent of the total taxable assessment for a general tax, and shall also determine the amount of money required to be raised in such year by the city for interest, sinking fund and redemption of the bonds of the city. A reasonable sum for delinquencies, discounts and costs of collection may be added by the council to the amounts aforesaid. The amounts determined as aforesaid together with any additional sum or sums authorized to be levied and collected, as in this section hereinafter provided, shall he levied and collected by the council on the property and persons assessed as aforesaid and in accordance with such assessment and according to a rate established by the council.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 49. Payment and collection of taxes; errors and delinquents in assessments.

All taxes shall he paid to the collector of taxes. For all taxes not paid on or before July 31st in the calendar year that they are assessed, there shall be added and collected a reasonable penalty.

It shall be the duty of the collector of taxes to proceed forthwith to collect all taxes unpaid by the first day of October in the calendar year that they were assessed and in the collection of said taxes he/she shall have all the powers conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County.

The council shall have the authority to allow errors and delinquents in the assessment.
The provisions of § 8705, title 9 of the Delaware Code shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 49A. Assessment, payment, and collection of taxes for new construction.

In the event that the mayor and council of the City of Dover desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so provided that: At the beginning of each quarter of each year, there shall be ~~**a true, just, and impartial**~~ **an increase in the** valuation and assessment of all newly constructed real property within the city, locating each parcel of real property by street and number or other description. Property shall be deemed to be newly constructed when the city permits occupancy and use **(Certificate of Occupancy) or when new construction is being used or occupied for its intended purpose**. The said valuation and assessment shall be made by an assessor or assessors

who shall be elected by council in accordance with the provisions set forth in Section 47 of this Charter.

The aforementioned assessment shall be during the months of January, April, July, and October of each year. ~~**The aforementioned assessment shall be deemed a general assessment for all property with new construction.**~~ **Any new construction with an added value of $25,000 or less shall not be realized until the next annual assessment roll.** The ~~**council**~~ **property owner** may ~~**direct**~~ appeal~~**s from**~~ any ~~**general**~~ assessment for new construction in accordance with Section 47 of this Charter.

Nothing in this section contained shall be deemed or held to invalidate or otherwise affect any assessment made prior to the approval of this section or any tax levied thereunder.

All taxes shall be paid to the collector of taxes. Said taxes shall be paid within thirty (30) days of billing and those taxes not paid shall accrue a penalty in the amount of one and one-half (1½) percent per month. For every tax that is not paid as prescribed herein, the tax collector shall have all the powers conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County.

The council shall have the authority to allow errors and delinquents in the assessment.

The provisions of 9 Del. C. § 8705 and 25 Del. C. §§ 2901 through 2905, as they may from time to time be amended, shall be deemed and held to apply to all taxes laid and imposed upon the provisions of this Charter.

Sec. 50. Debt limit.

(a) Whenever the needs of the city shall require more money than is at the time in the city treasury from current receipts, the council shall be authorized and empowered to anticipate current revenue by borrowing such sums as shall be needed not in excess of one percent of the total taxable assessment for a general tax. The amount so borrowed shall be paid back out of current revenue received thereafter.

To exercise the power aforesaid the council shall adopt a resolution to that effect, which resolution shall require the affirmative vote of at least three-fourths of all the members of the council, and the approval of the mayor. The indebtedness created under this section shall he evidenced by the bond, or note, of the city, and the faith and credit of the city shall be deemed to be pledged thereby.

(b) The mayor and council is hereby authorized and empowered to borrow from time to time on the faith and credit of the City of Dover sums of money for such purposes as may be deemed necessary and proper by the mayor and council of the said city which purpose shall be consistent with the powers conferred upon the mayor and council of the City of Dover by the Charter thereof, as amended, for the management and maintenance of the said city and for these purposes the mayor and council shall have full power and authority to issue bonds of the said "City of Dover."
The aggregate of the amounts so borrowed together with all other bonded indebtedness for which the full faith and credit of the City of Dover has been pledged shall not at any time exceed a sum equal to 25 percent of the total assessed value of real property situate within the bounds of the City of Dover as such boundaries shall from time to time appear.

The said bonds shall be issued in one or more series, shall bear such date or dates, shall mature at

such time or times, shall bear interest at such rate or rates, shall be payable at such time or times, and at such place or places, shall be in such denominations, and shall contain such other provisions as the mayor and council may provide and shall be set forth in the said bonds. Said bonds may or may not be coupon bonds and may he registered or otherwise as the mayor and council deem advisable. The mayor and council shall direct and effect the preparation and sale of said bonds at such time or times, at such price or prices, and upon such terms as the said mayor and council deem advisable, and all the monies arising from the sale of said bonds shall be used for the municipal purposes of the City of Dover specified in the resolution authorizing their issue.

The form of said bonds and of any coupons which may be thereunto attached shall be as prescribed by the mayor and council, and all such bonds shall be signed by the mayor and the treasurer of the City of Dover and sealed with the corporate seal thereof. Facsimile signatures of the mayor and treasurer and a facsimile of the corporate seal may be imprinted upon such bonds and any coupons attached to said bonds in lieu of the signatures of the said mayor and treasurer in their own handwriting and of the affixing of the corporate seal itself.

Said bonds of the City of Dover shall be exempt from all state, county and municipal taxes.

The mayor and council of the City of Dover are hereby authorized and required to levy and raise by taxation in each and every year such sums of money as may be required to pay the interest accrued on said bonds while all or any of said bonds remain unpaid, and the said mayor and the city council are further authorized and required to levy and raise by taxation, from time to time such sum or sums of money as shall be needed to establish such sinking funds as the said mayor and the city council may at their discretion authorize for the redemption of said bonds, or any of them, at or before their maturity and such sum or sums of money as shall be required to otherwise redeem any or all or said bonds at or before their maturity. Taxes for interest and for redemption of said bonds shall be levied and raised as taxes for general municipal purposes in the said city are levied and raised and shall be in addition to those levied and raised for any and all other municipal purposes.

A statement appearing in the bonds issued under the provisions of this section to the effect that the bonds have been duly authorized shall be deemed and held to be conclusive evidence in favor of the lawful holder of any such bonds that the terms and conditions of this section have been fully met and complied with.

(c) Bonds may he authorized and issued pursuant to subsection (b), without a referendum vote, by a resolution of the council which shall have the affirmative vote of three-fourths of the members thereof and the approval of the mayor, for the following purposes:

~~(i) To finance public storm sewers, streets and appurtenances provided that no more than $1,000,000.00 aggregate principal amount of bonds may be issued at any one time pursuant to this clause (i) and any new bonds issued pursuant of this clause (i) may not cause the total aggregate principal amount of bonds outstanding at any one time pursuant to this clause (i) to exceed one percent of the total taxable assessment for a general tax at the time such new bonds are issued; and~~

(i) To finance public storm sewers, streets and appurtenances provided that no more than 1/4 of one percent (.25%) of taxable assessed value of real property of aggregate principal amount of bonds may be issued at any one time pursuant to this clause and any new bonds issued pursuant to this clause may not cause the

total aggregate principal amount of bonds outstanding at any one time to exceed one percent of the total taxable assessment for a general tax at the time such new bonds are issued; and
(Adopted by City Council February 26, 2009)

(ii) To refund bonds secured by the city's full faith and credit, prior to their stated maturity, provided that (A) the present value of the aggregate principal and interest payments of the refunding bonds are not greater than the present value of the aggregate principal and interest payments on the bonds to be refunded determined by discounting at the effective interest rate on the refunding bonds, calculated based on the internal rate of return: and (B) at the time of issuance of the refunding bonds there are deposited in escrow, pledged to secure the refunded bonds, sufficient monies and/or direct obligations of, or obligation the principal of and interest on which are guaranteed by, the United States government, which, without regard to any reinvestment earnings, will be sufficient to pay when due all interest, principal and redemption price on the refunded bonds at maturity or upon earlier call for redemption.

(d) Except for bonds issued pursuant to subsection (c) hereof, all bonds issued under the provisions of subsection (b) shall first be approved by a referendum vote of the qualified voters (as herein defined) of the City of Dover.

Notice of the holding of such referendum election shall be authorized by resolution of the mayor and council, published once a week, for at least three consecutive weeks in at least one newspaper circulated in the City of Dover, Delaware. Such notice shall be set out in summary form the amount and purposes of such bond issue, the date and place of holding the referendum election and the hours the polls will be open.

At said referendum election "qualified voter" shall mean every natural person who is a resident or a nonresident taxable of the city, of the age of 18 years or upwards. Each qualified voter shall be eligible to vote and shall have one vote.

The city assessor or his/her designee shall attend the election with the last city assessment and tax payment records for the inspection of the election officers. The referendum election shall be held at such date as the mayor and council shall designate. The referendum election shall be held at such suitable place in said city as the mayor and council shall designate in said published notice. The polls shall be open from 7:00 a.m. (local time), and shall close at 8:00 p.m. (local time). The judge of the election shall, in the case of a tie vote on the bond issue, cast the deciding vote, otherwise judge of the election shall refrain from voting, but the election clerks may vote.

The total votes cast for and the total votes cast against the bond issue shall be certified as correct by at least two of the election officers and delivered to the mayor, or to the clerk of council immediately after the total vote count has been certified.

The mayor and council shall at the next regular meeting after the election, or at a special meeting, receive the results of the referendum election and make the same a part of the minutes of said meeting, whereupon if a majority of the votes cast were for the bond issue bonds herein provided for may be issued and sold as provided in subsection (b), but if at such referendum election the majority of the votes cast were against the bond issue, then no bonds shall be issued nor shall any money be borrowed pursuant to the resolution submitted to the referendum.

(e) In addition to the power otherwise granted in this section, the mayor and council may issue special assessment revenue bonds to finance those public projects for which the city may levy and collect special assessments pursuant to section 28 of this Charter. Such bonds shall not obligate the faith and credit of the city, but shall be payable solely from the proceeds of the special assessments which are pledged to the payment thereof. Such bonds shall be authorized without a referendum vote by a resolution of the council which shall have the affirmative vote of three-fourths of the members thereof and the approval of the mayor.

(f) After authorization of the sale of bonds as provided in this section and in anticipation of the sale and issuance of said bonds, the mayor and council may borrow money and issue notes of the city for the purpose and to the extent of the amount of bonds authorized to be sold, less the amount of any bonds theretofore issued under such authority. The said borrowing shall be authorized by a resolution of the council which shall have the affirmative vote of three-fourths of the members thereof and the approval of the mayor, and the note or notes thereby authorized shall be signed by the mayor and treasurer of the city. When issued and signed in accordance with this subsection (f), the faith and credit of the city shall be deemed to be pledged for the repayment of all said notes, except those issued pursuant to subsection (e) hereof.

The note or notes issued in anticipation of a bond issue may be renewed from time to time, but the proceeds of the sale of such bonds shall, to the extent necessary, be first used to pay and retire such notes. Said notes may be deemed at par and accrued interest at any time prior to their maturity if the right so to do shall have been reserved.

(g) For the purposes of the debt limitations prescribed in this section, (i) any bonds which have been refunded pursuant to subsection (c)(ii) shall be treated as no longer outstanding; and (ii) bonded indebtedness, principal amount of bonds and bonds outstanding shall be determined without regard to original issue discount.
(Amd. of 7-12-2005 (S.B. 126))

ARTICLE V. MISCELLANEOUS PROVISIONS

Sec. 51. Trees.

Trees being among the chief beauties of the city, and their preservation requiring that they be treated with special care and intelligence, the city manager is empowered to appropriate annually an amount of money adequate for their care and preservation. The city manager may he given authority to take necessary or appropriate action to prevent injuries to trees from electric wires or from any other source or cause whatsoever, and to combat the pests and diseases to which they are subject, and when necessary to employ tree experts provided that they do not exceed the appropriation made by the council.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 52.

This section intentionally left blank.

Sec. 53. Police; mayor to be conservator of peace.

There shall be a city police force, the number thereof and their salaries shall be determined by the

council, but they shall be chosen and appointed by the mayor. The mayor is hereby vested with all the powers of a conservator of the peace within the city limits. The mayor shall appoint a chief of police subject to removal at any time by the mayor in accordance with applicable laws. The members of the police force shall be subject to his/her direction and orders delivered through the proper chain of command and in accordance with applicable laws and ordinances. They shall preserve peace and order, and compel obedience within the city limits to the ordinances of the city and the laws of the state. They shall have such other duties as the council and the mayor shall prescribe by ordinance. Each member of the police force shall be vested with all the power and authority within the city limits and within one mile outside of said limits, (and, in the case of the pursuit of an offender, without limit) of a constable of Kent County.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 54. City solicitor.

At the annual meeting the council shall elect a city solicitor for the term of one year or until his/her successor has been duly chosen and qualified.

The city solicitor may be removed during his/her term by a vote of three-fourths of the members elected to the council.

The city solicitor shall be an attorney at law who shall have practiced in the State of Delaware for at least five years. The city solicitor shall be the chief legal adviser of and attorney for the city. It shall be his/her duty, either personally or by such assistants as they may designate, to attend meetings of the council; to give advice in writing, when so requested, to the council or the city manager to prosecute or defend, as the case may be, all suits or cases to which the city may be a party; to prosecute for all offenses against the ordinances of the city and for such offenses against the laws of the state as may be required of him/her by law; to prepare all contracts, bonds and other instruments in writing in which the city is concerned, and to endorse on each his/her approval of the form and correctness thereof; and to perform such other duties of a legal nature as the council may by ordinance require. In addition to the duties imposed upon the solicitor by this Charter or required of him/her by ordinance or resolution of the council he/she shall perform any duties imposed upon the chief legal officers of municipalities by law.

At the annual meeting the council shall elect a deputy city solicitor for the term of one year or until his/her successor has been duly chosen and qualified. The deputy city solicitor shall be an attorney-at-law entitled to practice law in the State of Delaware, and shall serve in such manner as shall be determined by the city solicitor to be necessary and proper.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 55. Powers of Town of Dover or town council conferred on city or city council.

All powers conferred upon or vested in the Town of Dover and or the Town Council of the Town of Dover by any act or law of the State of Delaware not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Dover and or the mayor and council of the City of Dover, precisely as if each of the said powers was expressly repeated in this Charter.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 56. Ordinances passed by town council continued in effect.

All ordinances adopted by the Town Council of the Town of Dover and in force at the time of the approval of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the city council under the provisions of this Charter.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 57. Officers of town to be initial city officers; prior actions of town council ratified.

The mayor and members of council at the time of approval of this enactment of this Charter shall retain their elected terms of office until re-elected or failure to be re-elected under the provisions and terms established herein.

All the acts and doings of the Council of the Town of Dover or of any officials of the said town lawfully done or performed under the provisions of any law of this state or of any ordinance of the council of the said town, prior to the approval of this Charter are hereby ratified and confirmed.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 58. Debts due to town to be due to city; impairment of bonds.

All taxes, debts, fines or penalties and forfeitures due the Town of Dover shall be deemed to be due the City of Dover, and all debts due from the said Town of Dover shall be deemed to be debts of the City of Dover, and the same imposed under the provisions of this Charter shall be deemed to apply and extend to all unpaid taxes imposed by the Town Council of Dover.

The bonds given by or on account of any official of the Town of Dover shall not be impaired or affected by the provisions of this Charter.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 59. Printed copies of ordinances and resolutions to be proper evidence.

Printed copies of the ordinances and resolutions of the City Council of Dover, published by authority of the council, shall be admitted as evidence thereof in all courts, and in pleading it shall not be necessary to recite or draw them out at large.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 60. Repeal of prior acts.

All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter are hereby repealed.
(Amd. of 7-12-2005 (S.B. 126))

Sec. 61. Severability.

If any part of this Charter, as it may from time to time be amended, are held to be unconstitutional, such holding shall not be deemed to invalidate the remaining portions of this Charter or amendments thereto.
(Amd. of 7-12-2005 (S.B. 126))
Actions History
February 23, 2009 - Introduced at LF&A Committee

CITY OF DOVER
TRAINING, CONFERENCE & TRAVEL POLICY

A. INTRODUCTION

1. Purpose

The purpose of this policy is to provide guidelines under which City of Dover employees, public officials, and appointees will be reimbursed for authorized travel expenses incurred in the conduct of business for the City of Dover, hereinafter referred to as "City." In addition to the guidelines, specific procedures with regard to incurring and reporting related expenses are provided.

2. Scope

This policy shall apply to employees of the City of Dover, elected officials, boards, commissions and others, who are engaged in authorized travel and who expend City funds for travel purposes. The Mayor and Members of City Council are not required to submit a Travel Authorization and Completion Form, but are required to follow the financial and budget requirements of this policy.

While this policy does not cover every possible situation, it establishes adequate guidelines for employees and officials to make appropriate and consistent judgments regarding the expenditure of City funds for reimbursable expenses. **Please note the City of Dover will provide flexibility to meet the special needs and requirements of their employees during travel.**

It remains the responsibility of city management to control and approve travel-related expenditures. The City Manager and Controller/Treasurer may impose more stringent rules when deemed appropriate or necessary.

The City Manager and Controller/Treasurer will review every three years the implementation of this Policy and will provide policy interpretations and assistance to ensure effective and efficient implementation. Any exceptions will be subject to approval by the City Manager and Controller/Treasurer. Exceptions will only be made in particular cases where adequate justification is presented. The City Manager and Controller/Treasurer may also, on a case-by case basis, approve reimbursements exceeding the guideline amounts referenced in this policy. In any such instance, a detailed explanation and substantiation (a receipt) is required. Enforcement of this policy will be the responsibility of the Controller/Treasurer.

3. Responsibility

a. Employee, Public Official, or Appointee
- Comply with all provisions of this policy.
- Obtain the necessary approvals in advance for overnight travel and out-of-state use of City vehicles. Provide a copy of the approval with the travel prepayment made by direct voucher.
- All expenses incurred in the course of City business are to be in accordance with the City's Administrative Policies and Rules of Ethics and must be paid solely from appropriated funds.
- Comply with the ten (10) working-day rule.

b. Department Director/City Manager/Council Designee
   - Ensure compliance with this policy.
   - Review and approve each of their employees/official's travel approval requests and reimbursable expenses.
   - Ensure sufficient funds are available for all anticipated expenses.

c. Signatures on the Travel Expense Report certify that the expenses were incurred by the employee/official requesting reimbursement for official City business, are reimbursable in accordance with this policy, and have not been reimbursed except as indicated on this form.

   Required signatures for expenses are:
   - Employee
   - Supervisor
   - Department Director or Council Designee

B. TRAINING AND CONFERENCE REGISTRATION FEES

1. Request for payment of registration fees shall be accompanied by the registration form.

2. City Council, Planning Commission and the Mayor are offered opportunities to attend courses designed for governmental officials. Any member of Council wanting to take advantage of these courses offered by the following organizations will submit to the City Clerk's office their request for registration.

   - Delaware League of Local Governments
   - National League of Cities
   - US Conference of Mayors
   - International City Managers Association
   - Government Finance Officers Association (GFOA)
   - American Public Power Association (APPA)
   - American Public Works Association (APWA)
   - American Planning Association
   - Organizations that provide Continuing Education credits for professional license renewals of applicable staff.

   Any courses not offered by these organizations will be submitted to the City Manager and Controller/Treasurer for concurrence.

C. TRAVEL AUTHORIZATION

All out-of-state travel that extends beyond one day shall be approved by the City Manager or Council Designee. All requests shall be made on the "Travel Authorization and Completion Form" (City of Dover - Form 047). A copy of the conference or meeting program must be attached to the form. The authorization form must be submitted to the City Manager or Council Designee in a reasonable amount of time prior to the traveling day.

The Department Director, City Manager, or Council designee may impose specific requirements as to the time the authorization form must be submitted prior to travel.

Employees and Officials traveling on official City business should be aware that the approval is for travel only, and is not a blanket approval of the expenses incurred.

A travel packet including the authorization form, the meeting program/itinerary, and the purchase orders for advanced costs must be submitted to the Accounts Payable Department. The Purchase Orders for the advanced costs should include the necessary supporting documentation. It does not require the submission of duplicate information. Please note Purchase Orders for Registration costs must include the Registration form unless previously submitted; submission for Hotel and airfare costs must include documentation of the individual costs unless previously submitted.

D. TRANSPORTATION: COMMON CARRIER

1. General

All trips requiring the use of common carrier must be pre-approved by the appropriate approval authority.

The mode of travel must be justified on the basis of the most economical use of time of the personnel involved, the cost of optional travel modes, and the requirements of the trip.

All common carrier reservations must be consistent with reasonable business travel planning, common carrier will be booked at the lowest available fare. If the lowest available fare is turned down by the traveler, the traveler's explanation for the denial is to be provided with the travel authorization request.

Travelers should be advised to make travel reservations as far in advance as possible to attain the lowest fares, including non-refundable tickets. Travelers may not specify particular airlines or other carriers to accumulate mileage on promotional plans such as frequent flyer programs.

In order to take advantage of special discount rates (supersaver fares, etc.), or reimbursement to an employee may be made prior to a trip being taken under the following conditions:

a. Documentation of the substantial savings that will accrue to the City (e.g., supersaver discounts).
b. Employee's proof of payment on a statement from the airline, other than credit card receipts.

Most airlines will not give refunds or partial refunds for supersaver airfares.

It is encouraged to examine the advantage of fares requiring early trip departure or delayed return. However, it is important to consider the additional cost of meals and lodging for the required extra day(s) stay when comparing cost.

2. Air Travel

a. Accommodations - When commercial airlines are used as a mode of travel, accommodations shall be coach/economy class unless some other class accommodations are more economical.

b. Routing of Travel - All travel will be by the most economical and direct routes.

In the event that a person travels by an indirect route for personal convenience, the extra expense shall be the responsibility of the individual. Reimbursement for expenses shall be based only on the cost of the most economical and direct route.

c. Conference Airfare Arrangements

When attending a conference, always check conference materials to see if special airline discounts are offered. When a special airline discount rate is offered and conferees are instructed to go directly to an airline or to obtain the discount fare, the employee should compare the conference rates through the internet with all other airline rates available before scheduling airline reservations. The employee should always book the lowest fare possible. (See Section E.3. for Conference Lodging Arrangements).

3. Rail Travel

1. Accommodations

When it has been determined that rail travel is the most appropriate mode of transportation, the most economical class accommodations shall be utilized.

E. TRANSPORTATION: PASSENGER VEHICLES

1. City-Owned Vehicles

City-owned vehicles should be utilized for both in-state and out-of-state travel when such use is the most practical and economical mode of transportation, including the cost of tolls, fuel and parking.

2. Use of Privately-Owned Vehicles

a. The use of privately owned vehicles for any City travel (both in state and out-of-state) should only be used when a City Vehicle is not available. The use of a privately owned vehicle for City travel shall require the prior approval of the City Manager and Department Director. Reimbursement of private vehicle expenses shall be at the Standard Mileage Rate as set by the federal government for actual and necessary miles traveled. Beginning and ending odometer readings are required for the reimbursement for mileage.

b. In considering approval for use of personal vehicles, the approval authority shall take into consideration the cost of alternative modes of travel and the cost of meals

and lodging for the additional travel/transit days. Mileage reimbursements shall not exceed the cost of airfare plus travel to/from the airport.

c. When two or more employees travel in a privately owned vehicle, only one mileage reimbursement will be allowed.

3. Rental Cars

a. General

The use of a rental car when traveling out of state must be justified as an economical need and not as a matter of personal convenience. Prior Approval by the City Manager is required before arranging for car rental. All rentals should be at the most economical rate per day including government rates or special rate agreements. When traveling in groups, sharing of cars, when practical, must be done to minimize costs. The city will not pay for the use of a rental car to accommodate family members or non-business associates traveling with the employee, public official, or appointee.

b. Vehicle Size

Whenever possible, compact cars shall be rented or reserved. However, if a larger size vehicle is more economical or more than two city travelers are traveling together the larger vehicle may be appropriate. Any representative of the City requesting an upgrade of the size of a rented vehicle shall provide a written explanation of their reasons to the City Manager. **A receipt is always required**.

c. Insurance

(1) The optional insurance coverage offered by the car rental agency must be declined when the traveler charges the rental car. The traveler will automatically receive primary coverage under the City blanket insurance policy for travel. When insurance is declined, the policy covers collision damage, theft, fire and vandalism. Reimbursements for additional or optional insurance coverage will not be allowed.

(2) Other. Travelers <u>not</u> covered under the blanket insurance policy may be covered by their personal automobile insurance policy or other personal credit cards. Travelers should check their automobile policy and credit card policy for business travel coverage and accept or decline additional coverage accordingly. Reimbursement for additional or optional insurance coverage will not be allowed.

d. Refueling Before Return

To avoid a refueling surcharge, all rental cars shall be refueled before returning the vehicle to the rental company. Any surcharges billed to the employee, public official, appointee, or City shall be explained in the reimbursement request.

e. Reservations

Approved car rental reservations shall be made in advance whenever possible. The employee should compare car rental rates and always look to reserve the lowest rental.

F. LODGING

1. General

City travelers are expected to seek accommodations that are comfortable, convenient, meet business and personal needs and offer good value. Employees are expected to compare local lodging rates in the area prior to reserving lodging.

2. Accommodation

a. Lodging accommodations for reasonably priced single occupancy rooms are reimbursable when the traveler is away from home overnight due to official travel.

b. Accommodations shared with family members or others not on official City business are reimbursable at the single occupancy rate only.

c. Accommodations shared with other City travelers should be billed and reimbursed to one traveler. When required, reimbursements to more than one traveler shall be based on a pro rata share as reported on each reimbursement request.

3. Conference Lodging Arrangements

When hotel rooms are blocked for a conference, seminar, etc., and a special discounted conference hotel rate provided, the employee/official should compare conference rates with the rates for other local hotels within walking distance of the conference. The employee is urged to reserve hotel accommodations that offer the best value to the City. This includes conference rate, government rate or lower rate, for the employee/official. If a lower rate is not available, the conferees should make their lodging arrangements directly utilizing the conference instructions.

4. Occupancy Tax

The City is exempt from the tax on occupancy of hotel, motel and tourist home rooms within Delaware only. When instate overnight accommodations are necessary, the employee should be provided with a copy of the Occupancy Tax Exemption Certificate (see Exhibit C) to be presented to the lodging facility. Tax on occupancy of hotels in other states must be paid.

G. MEAL ALLOWANCES

1. General

The City will pay for or reimburse an employee/official for the necessary and reasonable cost of meals and incidental expenses incurred during out of state travel requiring overnight lodging.

Additional meal costs incurred over and above those provided as part of a conference or registration fee are not reimbursable, unless justified as a special circumstance and approved by the City Manager and Controller/Treasurer (e.g. special meeting or diet restrictions).

Exceptions are to be pre-approved by the City Manager and Controller/Treasurer.

There will not be any reimbursement for meals when the meals are provided as part of the conference/training or by the host organization and when meals are provided as part of the airfare. There are no exceptions to accommodate employee meal preference.

Only per diem rates as prescribed by the Federal Government for official travel will be provided for M I &E Allowance (Exhibit A).

If an employee is traveling partial days on any calendar day, the City will prorate the applicable M & IE rate at 75 percent. This applies to both day of departure and day of return. Partial travel days begin when an employee leaves Dover after 12:00 noon on the day of departure and returns to Dover by 5:00 PM on the day of arrival.

When meals are provided at the conference or by the host, the meal allowance will be reduced by 25% for each meal provided. Continental Breakfast provided by the hotel or at the conference is counted as a meal, **unless justified as a special circumstance and approved by the City Manager and Controller/Treasurer (e.g. special meeting or diet restrictions).**

2. Day Trips, In-state Travel and Before or After Hours

The meal allowance for day trips out of the City will reimbursed at actual cost**,** as long as it does not exceed 25% of the normal per diem per the M I &E Allowance (Exhibit A). The meal allowance for working before or after hours as a general rule are not encouraged, but may be approved by the City Manager and/or Controller/Treasurer on a case-by-case basis. At no time can the amount exceed the allowances established.

H. CASH ADVANCES

General/Blanket travel advance checks will not be issued to employees, public officials, or appointees. Employees, public officials, and appointees will be reimbursed for specific travel related expenses after the trip or event has been completed.

The City will pay specific travel and lodging costs in advance as long as the request deadlines are met. Employees, public officials, and appointees shall use City purchase order when requesting travel cost advances. Department Directors should use their City credit card for business travel. Directors may approve the use of their departmental travel credit card when arranging employee travel. Under urgent situations and with prior approval, employees and officials can also use a personal credit card and request reimbursement when they return.

The City will pay in advance the following costs:

Please note: A travel packet including the Travel authorization form, the meeting program/itinerary, and a purchase order for the advanced costs listed below must be submitted to the Accounts Payable Department no later than 12 days prior to the event.

a. **Conference/Training registration fees.** Such payment will be made payable and mailed directly to the organization. This will be done through a purchase order submitted by the department upon receipt of the approved Travel Authorization Form. A copy of the registration form describing the specific event must be attached to the purchase order. The Employee Travel packet must be submitted to Accounts Payable prior to/or along with the purchase order request for advance travel expenses.

b. **Airfare.** Airfare is normally reserved on-line through the internet and paid with a City credit card after travel approval has been received. See City Credit Card Policy.

c. **Lodging**. Upon receipt of the approved Travel authorization form, the department may submit a purchase order for lodging. The check will be made payable to the hotel and will be given to the person for whom the lodging arrangements are made. The department must provide supporting documentation including the daily lodging rates and applicable taxes along with the purchase order. Lodging reservations can be held with the use of a City Credit Card. See City Credit Card Policy

d. **Meal allowance**. An advance for the M&I E Allowance, which includes both meals and incidental expenses, will be permitted for meals not provided by the conference or training as indicated in Section G (1) above. Only per diem rates as prescribed by the Federal Government for official travel will be provided for M&I E Allowance (Exhibit A).

I. TRAVEL EXPENSE REIMBURSEMENT

1. General

A Travel Expense Report (City of Dover Form 30b) is due to Accounts Payable within **ten (10) working days** after travel or an expense is incurred. **(Ten working-day rule)**

a. Timely reimbursement can be assured only if an accurate, properly substantiated Travel Expense Report is received in Accounts Payable **ten (10) working days** after completion of the trip.

b. Failure to submit timely Travel Expense Reports after the completion of a trip will result in administrative action, such as notification to the Department Director and denial of future travel requests.

Travel Expense Reports for local travel and related expenses are to be submitted monthly. **In no case shall a reimbursement be made to an employee for travel/conference/training related expenses incurred in excess of 90 days.**

Note: This section pertains to only those travel expenses paid by the traveler; not to travel expenses directly billed to/paid by the City.

2. Receipt Requirements and Other Reimbursement Criteria

a. Tickets booked on common carriers (airline, rail or bus) require original copy of the paid invoice or email confirmation containing total travel costs for arrangements booked on-line.

b. Hotel/motel bills shall be the original copy of hotel/motel billing marked paid.

c. Ground transportation, including airport shuttle, taxi or public transit requires a receipt.

d. Car rental reimbursements require paid invoice from the rental company.

e. Meals do not require receipts and are not reimbursable above the maximum daily/partial day per meal allowance.

Tips are included in the M I&E Allowance and will not be reimbursed separately.

When more than one City employee, public official, or appointee's meals are being reimbursed, each employee must submit a separate Travel Expense Reimbursement, including a receipt from the dining facility attached.

f. Hotel/motel related expenses should be documented identifying the date and the cost for each category with the following requirements:

(1) Out-of-pocket costs for incidental items such as tips, baggage handling and maid service are not individually reimbursable by the City of Dover. Costs included under this category are included in the MI& E per diem rate. Only per diem rates as prescribed by the Federal Government for official travel will be provided for MI& E allowance. (Exhibit A)

(2) City-business related telephone calls are reimbursable as incurred and require a receipt from the telephone service provider or included on the hotel/motel billing invoice.

g. Lodging at campgrounds using traveler's camper or recreational vehicle is reimbursable at the actual cost, not to exceed the equivalent cost of hotel/motel lodging. Receipt is required.

h. Other Categories

Reimbursement for the following categories should be submitted on a schedule identifying the date, the cost and the category. All supporting receipts must be attached:

1) The City will reimburse employees for Hotel and airport self-parking. The City encourages all employees to seek 'economy and budget parking'.

2) The City will not reimburse employees for Valet parking.

3) The City will reimburse employees the cost of tolls for interstates, turnpike, bridges and/or ferries. All travel expenses require a receipt.

i. Gasoline and/or Other Supplies

Need for emergency repairs incidental to using a City-owned vehicle shall require a Vendor receipt.

j. Reimbursements for travel expenses incurred without required receipts, as outlined, is strictly prohibited. A "no receipt - no reimbursement" policy applies.

k. Prior Department Director approval is required to receive reimbursement for Internet Access Costs for city business. These costs must be substantiated with receipts and validation by the Information Technology Department.

l. While traveling overnight out-of-state, the City will reimburse employees for the cost of up to two (2) personal telephone calls not to exceed $8 per trip. A receipt is required for reimbursement.

3. Non- Reimbursable Expenses

The City shall not reimburse expenses for the following:

a. Alcoholic beverages**.**
b. In-room movies or pay television.
c. Theater tickets or nightclub entertainment.
d. Laundry.
e. Babysitting.
f. Related expenses of spouse, children and other persons accompanying the authorized employee/official.
g. Pleasure, historic or other tour related expenses. Expenses for business related tours would be reimbursed.
h. Donations and gifts made while at training, conference, or meeting.
i. Loss or damage of personal items.
j. Meals for other conference attendees.
k. Purchase of personal items.
l. Any parking or moving violation fines.
m. Any personal or pleasure travel while on City business.
n. Valet parking, unless required for medical reasons.

J. CHARTER AND CODE OF CONDUCT

All City of Dover policies are subject to the City of Dover Charter Part 1, Subpart A, Article II, Section 12 "Compensation and expenses - Mayor and Council and other elected or appointed

officials", whereas, "Members of the council, mayor and other elected or appointed officials shall receive reimbursement for actual and necessary expenses incurred when on official business as prescribed by city ordinance or policy" and; Part II Code of Ordinances Chapter 2, Article 1, Division 4 "Code of Conduct", which is "applicable to all elected and appointed officials and to all employees of the City of Dover."

K. INTERNAL REVENUE CODE - DEFINITION OF PUBLIC OFFICIAL

Generally, if there is any provision in a public law which authorizes the employment of the individual, and the individual is hired or elected under this authority, the individual is considered an employee of the State or political subdivision to which the provision applies.

The following factors indicate that an office is a "public office."

The office was created by the constitution or through legislation, or by a municipality or other body with authority conferred by the legislature.
The office was delegated a portion of the powers of the government body.
The powers conferred and the duties to be discharged are defined either directly or indirectly law or through legislative authority.
The duties are being performed independently and without control of a superior power other than the law.
The office has some permanency and continuity, and the officer takes an official oath.

Examples of public officers are: the president and vice president; a governor or mayor; the secretary of state; a member of a legislative body, such as a state legislature, county commission, city council, school board, a judge; a justice of the peace; and members of advisory boards and committees.

L. REVIEW & REVISION

The City of Dover Travel Policy will be reviewed every three years by the City Council, City Manager, Controller/Treasurer and City Clerk.

EXHIBITS

Exhibit A - General Service Administration Regulations - Per Diem Rates Travel Rates for Continental United States
Exhibit B - City of Dover Exemption Certificate Form

ADOPTED:

Council Presentation for Review and Evaluation of the PFP Evaluation System (Part 2 of 2)

City of Dover, Delaware



February 23, 2009



Management Advisory Group, Inc.

Overview of Presentation:



- Overall Study Questions
- Approach: Steps in the Study
- Current System: Study Findings
- Key Study Recommendations
- Examples



Overall Study Questions

- How well has the performance evaluation system worked?
- Is the appeal process working?
- Have there been a high number of appeals?
- Is the training adequate?
- Does the system help to retain/recruit employees?
- What changes are needed?

Approach: Steps Taken in the Study

- Management and Employee Meetings
- Review of Pay for Performance forms
- Research on various performance systems
- Report Development

Current System: Study Findings

- Includes comprehensive policies, instructions, and forms.
- System is more comprehensive than most cities.
- It is a relative system (how employees perform relative to one another).
- Supervisors must complete evaluations before receiving any increase.
- Increases are a function of position in pay grade, score, and current salary.
- Use of “below market and above market” as factors.

Key Study Recommendations

Evaluation Criteria:

- *Change "Good" to "Meets Expectations" on the evaluation form.*
- *Change "Acceptable with Some Improvements Needed" to "Improvement Needed".*
- *Change "Outstanding" to "Results Rarely Achieved by Others".*

Key Study Recommendations cont…

Process…

- Adopt a statistically recognized process for comparing performance appraisal scores between and among raters.
- Hold up *all adjustments* until all supervisors have completed and submitted their evaluations to the Human Resources Department.
- Publish on the City's intranet a list of those supervisors who have not submitted a completed evaluation. Make accurate and timely completion a key supervisory element of review.

Key Study Recommendations cont…

Process…

- Continue the current process for appeals.
- For employees above the max, the City should consider providing any amount in a one-time lump-sum payment that does not roll into the base salary.



Key Study Recommendations cont…

Establishing Adjustment Values:

- Base the movement within the pay grade on "normal progression" for employees who "Meet Expectations" to reach midpoint in 10 years.
- Use the arithmetic midpoint of the position's assigned pay grade as the basis for calculating potential performance adjustments.
- Establish range of adjustments from zero (0) through -- an annually determined percentage amount for "Results Rarely Achieved by Others" (dependent on funding available)

Example of Adjustment Values:

- **If the City makes a 3% structural adjustment to the pay structure, the following set of adjustments would occur:**

PFP Score	Rating	Adjustment as a % of midpoint.
0 – 19	Unsatisfactory	0
20 – 29	Needs Improvement	1%
30 – 35	Meets Expectations	3%
36 – 41	Commendable	4%
42 – 50	Results Rarely Achieved by Others	5%



Example (with 2% structure adjustment)

Position	Grade	Score	Midpoint	%	Increase
Computer Operator	113	38 (Commendable)	$36,989	3	$1,109.67
GIS Technician	113	32 (Meets)	$36,989	2	$ 739.78



Example of Three Employees with Varying Experience

Each in Same Pay Grade with Midpoint of $37,000
All with Evaluation of "Meets Expectations" or 2% Adjustment based on % of Midpoint

Experience	Current Sal.	$ Increase	New Sal.	% of Current
New Employee	$29,000	$ 740	$29,740	2.55
10 Year Employee	$36,000	$ 740	$36,740	2.05
15 Year Employee	$43,000	$ 740	$43,740	1.72

