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

That the General Assembly of the State of Delaware is hereby requested that the Charter of the City of Dover be consolidated into one complete Act and in certain respects further amended and revised Subpart A, Charter, Sections 1 through 61, and Subpart B, Related Laws, Sections 1 through 3.

ADOPTED: *

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AN ACT TO REINCORPORATE THE TOWN OF DOVER.

WHEREAS, it is deemed advisable that the Charter of the City of Dover, set forth in 36 Del. Laws c. 158, with subsequent amendments, be consolidated into one complete Act and in certain respects further amended and revised.

NOW, THEREFORE:

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

"CHARTER OF THE CITY OF DOVER

ARTICLE I. GENERAL PROVISIONS

Sec. 1. 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 for Kent County and State of Delaware as presently existing and as hereinafter amended.

Sec. 1A. Procedure to extend boundaries.

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 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 thirty (30) nor more than sixty (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 (2) issues of a newspaper of general circulation within the City of Dover at least two (2) 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 eighteen (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 him 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 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 his preference by making a mark in pencil within the box beside the words expressing his preference.

At any such election the polls shall be 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.

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 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.*** ~~procedure shall be as follows, to wit:~~

~~The council shall, by a majority vote, adopt a resolution favorable to the acquisition of such real property or personal property, as the case may be, giving a sufficient description of such property, whether real or personal, as shall identify said property and as shall determine the amount of the property proposed to be taken. The said resolution shall also state the day, hour and place when the said council will sit to hear objections and to award just and reasonable compensation to any one who will be deprived of property. A copy of such resolution shall be posted in five (5) or more public places in the city at least five (5) days before the day fixed for the hearing aforesaid.~~

~~At the time and place fixed in the said resolution, said council shall hear such residents of the city or owners of the property affected as shall attend, and shall at said meeting, or at a subsequent day, as they shall deem proper, adopt a resolution by a majority vote to proceed with or to abandon, the proposed acquisition of the property mentioned in the original resolution, as they shall deem for the best interest of the said city. And in case the determination of the said council shall be to proceed with the plan contemplated by the resolution first aforesaid, they shall also award just and reasonable compensation to anyone who will be deprived of property in consequence thereof. Such compensation, if any be awarded, shall be paid by the treasurer of the city, on a warrant drawn on him by authority of the council aforesaid. If anyone who will be deprived of property as aforesaid be dissatisfied with the compensation awarded by the council aforesaid, he may within five (5) days after the award of the council, as aforesaid, appeal from such award by serving written notice to that effect on the city manager. In order to prosecute said appeal such appellant shall, within five (5) days after the expiration of the five (5) days allowed for the appeal as aforesaid, apply to the Judge of the Superior Court for the State of Delaware resident in Kent County, or in his absence at said time, to the chief justice of the said court, for the appointment of freeholders to hear and determine the matter of compensation to such appellant for any property of which he will be deprived as aforesaid, and thereupon the said judge or chief justice, as the case may be, shall issue a commission under his hand directed to five (5) impartial freeholders of Kent County commanding them to determine

~~and fix the damages which the said appellant will sustain by reason of being deprived of any property as aforesaid, taking into consideration the benefits or advantages that will enure to the said appellant, and to make return of their findings to the said judge or chief justice, as the case may be, at a time therein appointed. The said freeholders shall give notice of the day, hour and place when they will meet to view the premises and to assess the damages, if any, as aforesaid. Such notice shall be served upon the appellant personally, or by posting a copy on the premises affected at least five (5) days before the day when they are to view the premises as aforesaid and a copy of such notice shall also be served on the city manager at least five (5) days before the day of such meeting.~~

~~The freeholders named in such commission, being first sworn or affirmed, on the day and at the hour and place stated in the notice aforesaid, shall view the premises and hear the appellant and his witnesses and the council and their witnesses, and shall without delay, determine and fix the damages, if any, which the said appellant will sustain by reason of being deprived of any property as aforesaid. Thereupon and without delay the said freeholders shall make return in writing of their proceedings in the premises to the said judge or chief justice, as the case may be, who shall cause the said return to be delivered to the said city manager and such return shall be final and conclusive. The said judge or chief justice shall have power to fill any vacancy among the freeholders. The amount of damages being ascertained as aforesaid, the said council may pay or tender the same to the person or persons entitled thereto, within one month after the same shall be finally ascertained, or may deposit the same to his or her credit in any bank in the city to the credit of the person or persons entitled thereto within the said period of one month, and thereupon the said council may carry into effect the plan contemplated in their resolutions aforesaid. In the ascertainment and assessment of damages by the freeholders appointed by the judge or chief justice aforesaid, if the damages shall be increased, the costs of the appeal shall be paid by the treasurer of the city out of any money in his hands belonging to the city, but if said damages shall not be increased the costs of the appeal shall be paid by the party appealing. The fees to the freeholders shall be five dollars ($5.00) per day to each, which shall be taxed as part of the costs.~~

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.

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 "The City of Dover." The said "The 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 "The 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 a half*** percent (1.5%) 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 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.

ARTICLE II. MAYOR AND COUNCIL

Sec. 4. Government vested in mayor and city council.

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.

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 (9) 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 (4) election districts, the district boundaries of which shall be 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 (2) years commencing on the second Monday in May following his election and continuing for a term of two (2) years until the second Monday in May or until his successor has been duly elected and qualified.

The term of the councilmen shall be for two (2) years. In each regular municipal election held in an odd numbered year, five (5) councilmen shall be elected, four (4) 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 (4) 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 (2) years next preceding the day of the election;

(3) A resident of the election district from which he is seeking election, unless he is seeking election as an at-large councilman or mayor;

(4) Twenty-one (21) years of age; and

(5) Nominated therefor, as hereinafter provided.

If a councilman files and runs for mayor, whether or not he is 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 he has a year remaining on his term, then his office as councilman shall be filled at the same annual election in which he has filed to run for the office of mayor.

Sec. 6. Municipal election dates.

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 the regular municipal election held on the third Tuesday in April of any odd numbered year, five (5) councilmen shall be elected for a term of two (2) years, four (4) 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 (2) years, and a mayor shall be elected by the voters of the city for a term of two (2) years, as provided in Section 5 of this Charter.

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 (10) nor more than twenty-five (25) electors of the city, filed with the clerk of council on or before 4:00 p.m. on the second Friday of February of each year for candidates for council and on or before 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 be 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 be printed on the ballot for the regular municipal election as a candidate for the office for which he was nominated, provided he possesses 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 his 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 be 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 he is 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 he verily believes 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)

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.

All elections shall be held by an election board ~~which shall consist of the alderman and the necessary number of election board members as determined and designated by the election board~~. The ~~alderman~~ ***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 be 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 thirty (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 eighteen (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 he is 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 his ballot at any election either because of being in the public service of the United States or of this state, or because he 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.

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 (2) 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.

Sec. 10. ~~Same~~ *Meetings of Mayor and Council*--Procedure.

Five (5) 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 (7) days nor more than thirty-five (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 approval or disapproval thereof in writing to the clerk of the council within seven (7) 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 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.

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.

Sec. 12. Compensation and expenses --Mayor and council and other elected or appointed officials.

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.

Sec. 13. Filling vacancies for council [or mayor.]

The loss of residence in the city, the loss of residence in the state, the removal from the district where he resided at the time of his election, in the case of a councilman, or the conviction of any crime involving moral turpitude during the term for which he 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 (6) months in duration, the council shall fill such vacancy. If such vacancy should be in excess of six (6) months in duration, a special election shall be held to fill such vacancy, this special election to be held no sooner than thirty (30) days from the date of the vacancy, but said special election to be held no later than sixty (60) days after the date of the vacancy.

Sec. 14. Duties of mayor.

The mayor shall be the executive and chief official of the city. He 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.

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 right to vote as councilman at all times although he may be acting as the mayor, unless the mayor's 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 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 vote as councilman until further action is taken by council.

Sec. 16. Clerk of council.

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.

Sec. 17. City treasurer

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

The city treasurer shall be the custodian of all the city funds and shall deposit them in a banking institution designated by the council. NOTE: This Section was previously a part of Section 42

Sec. ~~17~~ *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 one thousand dollars ($1,000.00); and no provision in this Charter as to ordinances on any particular subject shall be deemed or held to be restrictive of the power to adopt ordinances on any subject not specifically enumerated.

Sec. ~~18~~ *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.

~~**Sec. 19. Jurisdiction of ordinances relating to infectious diseases or nuisances.**~~

~~The power to adopt ordinances relating to the health of the population of the city or to prevent the introduction or spread of infectious or contagious diseases or nuisances affecting the city shall extend to the area outside of the city limits and within one mile from said limits.~~

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.

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.

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 therefor. The council may appoint a building inspector and prescribe his powers and duties.

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 (2) 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.

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, ~~and~~ alleys**, rights-of-way, and air space or airways** of the city.

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.

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 therefor. 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.

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. ~~The procedure in every case as aforesaid shall be as follows:~~

~~The council shall, by a majority vote, adopt a resolution favorable to the opening of the new streets, or to the widening or altering of a street, or to the vacating or abandoning of a street, or any part thereof, as the case may be and giving a general description of the street to be opened or widened, or altered, or of the street or part thereof to be vacated or abandoned, as the case may be. The said resolution shall also state the day, hour and place when the said council will sit to hear objections and to award just and reasonable compensation to anyone who will be deprived~~

~~of property. A copy of such resolution shall be posted in five or more public places in the city at least five (5) days before the day fixed for the hearing aforesaid.~~

~~At the time and place fixed in the said resolution, said council shall hear such residents of the city or owners of the property affected as shall attend, and shall at said meeting, or at a subsequent day, as they shall deem proper, adopt a resolution by a majority vote to proceed with or to abandon, as they shall deem for the best interest of the said city, the opening of a new street or the widening, altering, vacating or abandoning of an existing street or part thereof, as the case may be, as contemplated in their prior resolution. And in case the determination of the said council shall be to proceed with the plan contemplated by the resolution first aforesaid, they shall also award just and reasonable compensation to anyone who will be deprived of property in consequence thereof. Such compensation, if any be awarded, shall be paid by the treasurer of the city, on a warrant drawn on him by authority of the council aforesaid. If anyone who will be deprived of property as aforesaid be dissatisfied with the compensation awarded by the council aforesaid, he may within five days after the award of the council, as aforesaid, appeal from such award by serving written notice to that effect on the city manager. In order to prosecute said appeal such appellant shall, within five (5) days after the expiration of the five (5) days allowed for the appeal as aforesaid, apply to the judge of the Superior Court for the State of Delaware resident in Kent County, or in his absence at said time, to the chief justice of the said court, for the appointment of freeholders to hear and determine the matter of compensation to such appellant for any property of which he will be deprived as aforesaid, and thereupon the said judge or chief justice, as the case may be, shall issue a commission under his hand directed to five (5) impartial freeholders of Kent County commanding them to determine and fix the damages which the said appellant will sustain by reason of being deprived of any property as aforesaid, taking into consideration the benefits or advantages that will enure to the said appellant, and to make return of their findings to the said judge or chief justice, as the case may be, at a time therein appointed. The said freeholders shall give notice of the day, hour and place when they will meet to view the premises and to assess the damages, if any, as aforesaid. Such notice shall be served upon the appellant personally, or by posting a copy on the premises affected at least five (5) days before the day when they are to view the premises as aforesaid and a copy of such notice shall also be served on the city manager at least five (5) days before the day of such meeting.~~

~~The freeholders named in such commission, being first sworn or affirmed, on the day and at the hour and place stated in the notice aforesaid, shall view the premises and hear the appellant and his witnesses and the council and their witnesses, and shall without delay, determine and fix the damages, if any, which the said appellant will sustain by reason of being deprived of any property as aforesaid. Thereupon and without delay the said freeholders shall make return in writing of their proceedings in the premises to the said judge or chief justice, as the case may be, who shall cause the said return to be~~

~~delivered to the said city manager and such return shall be final and conclusive. The said judge or chief justice shall have power to fill any vacancy among the freeholders. The amount of damages being ascertained as aforesaid, the said council may pay or tender the same to the person or persons entitled thereto, within one month after the same shall be finally ascertained, or may deposit the same to his or her credit in any bank in the city to the credit of the person or persons entitled thereto within the said period of one month, and thereupon the said council may carry into effect the plan contemplated in their resolutions aforesaid. In the ascertainment and assessment of damages by the freeholders appointed by the judge or chief justice aforesaid, if the damages shall be increased, the costs of the appeal shall be paid by the treasurer of the city out of any money in his hands belonging to the city, but if said damages shall not be increased the costs of the appeal shall be paid by the party appealing. The fees to the freeholders shall be five dollars ($5.00) per day to each, which shall be taxed as part of the costs.~~

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.

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 fifteen (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.

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

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.

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.

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.

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

The salaries or compensation of all city ~~officers~~ *appointees* and city employees shall be determined by the council *through the pay system and Collective Bargaining Agreements* .

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. He 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 shall, if he so demand, be given a written statement of the reasons alleged for his 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 removal, but pending and during such hearing the council may suspend him 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.

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 charge, and to that end, except as otherwise provided herein, he shall have the power to appoint and remove all employees in the administrative service of the affairs of the city under his charge. All such appointment shall be without definite term.

Sec. 35. Removal of employees [by manager.]

Employees appointed by the city manager, or under his authorization, may be removed by him 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.

Sec. 36. Council not to interfere with appointments or removals [of manager; giving orders to subordinates of manager prohibited; penalty for same.]

Neither the council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager or any of his 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.

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 charge; to make such recommendations to the council concerning the affairs of the city as may seem to him 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 by ordinance or resolution of the council.

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.

Sec. 39. Investigations by council.

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.

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. He shall have charge of the supervision of the streets, gutters, curbs and sidewalks of the city and of all work relating thereto. He 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. He shall ex officio be the collector of taxes for the city. It shall be his 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. He shall pay over to the city treasurer at least monthly, and oftener if required by council, all moneys received or collected by him and by any employee under him.

He shall keep a full and strict account of all moneys received and all ~~disbursements~~ ***transfers*** made by him ***to the City Treasurer*** and such accounts shall be at all times open to inspection by the council. He shall make such reports and at such times as the council shall direct.

~~**Sec. 41. Bond of city manager.**~~

~~The council shall require the city manager to give bond in such amount and such form and with such surety as the council shall approve.~~ ***NOTE: Additional Public Official Bonds are for the Treasurer and Assistant Treasurers only***

ARTICLE IV. ~~CITY TREASURER AND~~ FINANCIAL AFFAIRS

Sec. 42. ~~City treasurer;~~ †s *S*igning of warrants.†

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

~~The city treasurer shall be the custodian of all the city funds and shall deposit them in a banking institution designated by the council.~~ ***NOTE: This part of the section has been moved to become Section 17***

~~He~~ ***The City 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 treasurer except pursuant to appropriations or resolutions theretofore made by the council.

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

~~He~~ ***The City treasurer*** shall make such reports and at such times as the council may direct.

The city 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. 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.

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 value of supplies and materials on hand.~~

3 ~~4~~. The amount of the debt of the city together with a schedule of maturities of bond issues.

4 ~~5~~. 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 ~~6~~. 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 ~~7~~. An estimate of the amount of money to be received from taxes.

7 ~~8~~. 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.

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 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 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, the alderman and the city 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.

Sec. 47. General assessment and levy on utility property. ***This section amended for better clarification.***

~~In the year 2001 and every third year thereafter, there shall~~ ***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 ~~the previous December~~ ***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, all real property in the City of Dover shall be assessed by a certified independent outside appraiser chosen by Council. This assessment shall be in lieu of the valuation and assessment made by a freeholder assessor elected by Council as described hereinabove and in lieu of the assessor's duties described hereinabove. ***Moved from below (see 2nd to last paragraph)***

In addition to an 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 assessment.

The assessment made ~~in the year 2001 and~~ every ~~third~~ ***three*** years ~~thereafter~~ 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 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 real property of the assessor or assessors shall be assessed by the Council~~. The Council shall, prior to the fifteenth day of May of ~~the~~ ***each*** year ~~2001 and of every year thereafter~~, cause a copy of the general assessment to be posted in two (2) public places in the city for ten (10) days.

The Council may direct that appeals from any general assessment be heard by a committee of not less than three (3) Council members appointed by the Council president. The committee of Council members 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 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 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 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.

~~Whenever Council shall direct, all real property in the City of Dover shall be assessed by a certified independent outside appraiser chosen by Council. This assessment shall be in lieu of the valuation and assessment made by a freeholder assessor elected by Council as described hereinabove and in lieu of the assessor's duties described hereinabove.~~ ***Moved to above (see 2nd paragraph above)***

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.

(Ord. of 1-22-01)

Sec. 48. Maximum budget~~; raising the limit by town meeting~~.

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 (2) 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 be 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.

~~The electors of the city may assemble in town meeting on the evening of the third Monday in February in any year, to determine whether any additional sum or sums shall be levied and collected for any specific purpose or purposes, notice of which meeting, the place of meeting and the special purpose or purposes for which said additional sum or sums are desired having been published by the council, or by any taxable of the city, in the newspapers of the city twice immediately preceding the time of said meeting. At said meeting a resolution or resolutions shall be prepared stating explicitly the additional sum or sums needed or desired, and the specific purpose or purposes to which the said sum or sums shall be applied.~~

~~Every resident of the said city who is eighteen (18) years of age and who lives in the city shall be entitled to one vote. The electors of the city shall then proceed to vote yes or no, by ballot, upon said resolution or resolutions, and the result shall~~

~~be certified to the town [city] council, and if a majority of the votes cast shall be yes, then the council shall levy and collect said additional sum or sums and apply the same for the purpose or purposes specified, and if more has been levied and collected than was necessary for the purpose or purposes named or specified the residue shall be carried into the treasury of the city for general purposes.~~

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

~~In the month of June in each year, the council shall deliver to the collector of taxes a list containing the names of the taxables, and opposite the name of each the amount of his real property assessment, the amount of his personal property assessment, and the tax upon the total of his assessment, and the rate per hundred dollars ($100.00). The said list shall be signed by the clerk of council.~~

All taxes shall be 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 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.

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 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. 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.

~~The assessment for new construction 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 may direct appeals 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.

~~In the months of February, May, August, and November of each year, the council shall deliver to the collector to taxes in a list containing the names of taxables under this section and opposite the name of each the amount of the real property assessment, the tax upon the total of the assessment, and the rate per hundred dollars. The said list shall be signed by the clerk of the council.~~

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 (1 1/2) 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.

~~This section shall not pertain to any construction which had building permits prior to July 1, 1983.~~

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 (1) 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 be 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 "The 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 twenty-five (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 be 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 be 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 one million dollars ($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 (1) percent of the total taxable assessment for a general tax at the time such new bonds are issued; and

(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 (3) 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 eighteen (18) years or upwards. Each qualified voter shall be eligible to vote and shall have one vote.

~~The mayor and council shall, prior to the date of the referendum election, appoint one judge and two (2) clerks to pass upon the qualifications of each voter and to conduct the election and a majority of the election officers present at the opening of the polls, shall fill any vacancy among the election officers. A majority of the election officers shall be sufficient to decide the qualifications of the voters. The mayor and council, prior to the date of the referendum election, shall designate either the city manager or other city employee familiar with the city assessment and tax payment records to~~ ***The City Assessor or his 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 he shall refrain from voting, but the election clerks may vote.

The ~~election clerks shall each keep a separate tally sheet and their tally sheets shall be compared and must agree as to the~~ total votes cast for and the total votes cast against the bond issue~~. Both tally sheets~~ shall ~~then~~ be certified as correct by at least two (2) of the election officers and delivered to the mayor, or to the clerk of council immediately after ~~tally sheets are compared, are in agreement and have~~ ***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.

ARTICLE V. MISCELLANEOUS PROVISIONS

Sec. 51. Trees~~; [Tree commission.]~~

Trees being among the chief beauties of the city, and their preservation requiring that they be treated with special care and intelligence, the ~~council~~ ***city manager*** is empowered to ~~create a tree commission for the trees in the streets, the~~

~~Green, and other public places of the city and to~~ appropriate annually an amount of money adequate for their care and preservation. The ~~tree commission~~ ***City Manager*** may be 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.

Sec. 52. Alderman.

At the annual meeting, the council shall elect an alderman and a deputy alderman for the term of one year or until their successors have been duly chosen and qualified.

The alderman or deputy alderman may be removed during his term by a vote of three-fourths of the members elected to the council.

In the case of the temporary inability of the alderman to perform his duties by reason of sickness, absence, or otherwise, the deputy alderman shall perform said duties. As hereinafter provided, the deputy alderman shall have all of the powers and authorities and shall be subject to all duties and regulation as is the alderman.

Before entering upon the duties of his office, the alderman shall be sworn or affirmed to perform the duties of his office with fidelity.

The alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed in the city ~~so far as to arrest and hold for bail or fine and imprison offenders. And also of~~ ***for*** all fines, penalties and forfeitures prescribed by this Charter or any law of the state or by any ordinance of the council and also of all neglects, omissions or defaults of any member of the city police force or other city officer or employee***. The alderman*** ~~, provided that in the case of a violation of an ordinance, he~~ shall impose no fine or penalty in excess of that fixed by the ordinance ***or other applicable law.*** ~~, and shall not commit to prison for a longer term than thirty (30) days in default in the payment of a fine imposed by him. The jail of Kent County may be used for imprisonment under the provisions of this Charter provided that the council shall pay for the board of persons committed for breaches of ordinances that do not constitute breaches of the general law.~~ Within his jurisdiction as aforesaid the alderman shall have all the powers and authority of a Justice of the Peace for Kent County.

Any action, suit or proceeding authorized under any of the provisions of this Charter or under any ordinance of said city may be instituted in the name of "The City of Dover."

His fees for any service under this section shall be the same as those of a justice of the peace for like service, and for any service or duty for which no fee may be provided by law the fee may be established by ordinance of the council.

If any alderman shall be removed from his office by the council as previously provided, he shall deliver to his successor all the books and papers belonging to his office, and shall pay over to the city treasurer all moneys in his hands belonging to the city within five (5) days after his removal. Upon neglect or failure to make such delivery or payment, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined not more than five hundred dollars ($500.00) or be imprisoned in the discretion of the court.

The alderman shall, at the monthly meeting of the council, report to the council all fines imposed by him during the preceding month, and pay to the treasurer of the city all such fines and penalties received by him during the said time, and in default of making such report or paying such fine and penalties for a period of twenty (20) days after such report should be made and such fines and penalties should be paid as aforesaid, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00).

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 members of the police force shall be subject to his direction and orders and may be removed by him at any time. 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 or the mayor shall prescribe.

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.

~~Every person sentenced to imprisonment by the alderman shall be delivered by a member of the police force to the county jail of Kent County to be there imprisoned for the term of the sentence. In the case of an arrest during an hour or hours when the alderman shall not be available to hear and determine the charge, the person arrested may be delivered to the county jail for Kent County for imprisonment until such reasonable time thereafter as shall enable the alderman to hear and determine the charge against such person.~~

Sec. 54. City solicitor.

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

The city solicitor may be removed during his 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 (5) years. He shall be the chief legal adviser of and attorney for the city. It shall be his duty, either personally or by such assistants as he 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 by law; to prepare all contracts, bonds and other instruments in writing in which the city is concerned, and to endorse on each his 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 by ordinance or resolution of the council he 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 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.

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.

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.

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.

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.

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.

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.

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."

SYNOPSIS

The City of Dover's last reincorporation was in 1929, with over 50 amendments to that Charter having been enacted since that date.

The reincorporation will result in a concise, single complete document reflecting the present state of Dover's charter.

/jg
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