

CHARTER OF BOWERS

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Bowers

Section 1. Existence

- (a) The Town of Bowers is hereby continued as a municipal corporation of this State.

Section 2. Limits and Bounds: annexation

- (a) Description

The corporate limits and bounds of the Town of Bowers, Delaware are as follows:

BEGINNING at a point in midstream of the Murderkill River which flows northeasterly from Frederica and above to the Delaware Bay at Bowers, opposite the mouth of Rowlands Ditch which is the second ditch just west of the old Johnson's and/or Davidson's Wharf along said river, thence from the mid-stream point and crossing the northerly portion of the river to the said ditch and up and with the stream thereof with lands now or late of the Gibson heirs, now of others, also with lands now or late of I. W. Betts, and George W. Hall in a general direction bearing north 81 degrees and '30 minutes west a distance of about (1670) feet more or less to a point in the middle of land now of the U. S. Coast Guard Range and Channel Light Station which sets about (5)) feet south of the middle of West Main Street in Bowers, thence turning and running across W. Main Street and across the southerly intersection of Bay View Avenue in a sub-division known and described as Bay View Heights, which is not in the corporate limits of said town and also running across land now or late of B. Hollinger, Howard Ney, George W. Hall and others, bearing generally north 15 degrees east about (3600) feet to a point in Town Line ditch and also the line ditch between lands formerly of the Lindale heirs, now of Wm. Webb, and land formerly of the T.D.Hubbard heirs and now of George W. Hall, thence with and down said town line ditch in a northeasterly direction about (600) feet to the west shore line of St. Jones River, thence continuing further about (85) feet more or less to a new point in or near the middle of the stream of said St. Jones River, thence down and with the middle of said river and crossing a small islet at the mouth of the river to another new point opposite the medium low water line of a point now known as Town Point, thence turning and crossing the southerly portion of the mouth of St. Jones River in a general southerly and southeasterly direction to the medium or average low water line of the Delaware Bay at Town Point, thence following along and with the average low water line of said Delaware Bay, in a southerly and southeasterly direction to a point in or near the middle of the stream of the aforesaid Murderkill River, being a new point now established opposite the shore line of the Bay along South Bowers, thence with the middle of the stream of said Murderkill River running up thereof in a westerly and southwesterly direction to the new point of the said beginning in the middle of the stream of said river opposite the mouth of Rowlands Ditch.

- (b) Plot

The above description, courses and distances, includes the territorial limits of the Town of Bowers as set forth in Chapter 207, Volume 24, Laws of Delaware, and all annexations which have been authorized by the General Assembly subsequent to the enactment of the previous Charter and prior to the passage of this Act, The description set forth above shall be plotted and the plot shall be recorded in the office of the Recorder of Deeds, in and for Kent County, in Dover, Delaware, and shall be evidence in all courts of law and equity in this State. Subsequent plots may be prepared and when recorded, as aforesaid, shall also be evidence in all courts.

- (c) Annexation

The corporate boundaries of the Town of Bowers may be enlarged by the annexation of contiguous territory. Annexation shall be accomplished by written agreement between the owners of the land to be annexed and a majority of the members elected to Council. The agreement shall include a survey description of the lands to be annexed. shall be executed by the owners of the land and by the Mayor and Secretary of the Council, shall recite that the described lands are annexed to the Town of Bowers and shall be executed as deeds conveying real estate. Upon the agreement being recorded in the Recorder of Deeds Office in

Dover, Delaware, the annexed lands shall become a part of the Town of Bowers just as other lands now within the Town.

Section 3. Government**(a) Town Council and Mayor**

The Government of the Town of Bowers and the exercise of all powers conferred by this Charter except as otherwise provided herein shall be vested in a Town Council, consisting of four members and a Mayor, to be chosen for two year terms as hereinafter provided. They shall serve without compensation. Each Council member and the Mayor shall be at least the age of eighteen years and at the time of the election and during the term of office reside within the Town. The word reside shall mean domicile. The Mayor shall have all the powers of councilman and whenever the word "council" is used herein it shall include the Mayor. If at any time during the terms of the said councilmen they fail to comply with the aforesaid residence requirements, they shall ipso facto vacate their office. (58 **Del. Laws**, c. 352, 2/8/72, 66 **Del. Laws**, c. 284, 6/28/88)

Section 4. Elections**(a) Terms**

Two of the councilmen shall be elected for the term of two years each, in every even numbered year and two of the councilmen shall be elected for the term of two years each, in every odd numbered year. The Mayor shall be elected for a two-year term in every even numbered year. The members of the Council shall serve until their successors are duly elected and qualified. Councilmen holding office at the time of the enactment of this subsection shall continue to hold office until the expiration of their terms. (55 **Del. Laws**, c. 210, 12/13/65, 58 **Del. Laws**, c. 352, 2/8/72)

(b) Vacancy

In case of vacancy created in any office of the Council or Mayor either by death, resignation, loss of residence or otherwise, the Town Council shall fill such vacancy by appointment and the person so appointed shall serve the unexpired term of said office. (58 **Del. Laws**, c. 352, 2/8/72)

Section 5. Nominations for Councilman**(a) Nominations**

Nominations of candidates for Councilman or Mayor shall be by petition of the person desiring to be a candidate and filed with the Secretary of the Council on or before 4:30 p. m., prevailing time, on the second Monday preceding the annual Town election. Whenever a petition nominating a person for the office of councilman or Mayor shall have been filed as above prescribed, the name of such person shall be printed on the ballot for the regular Town election as a candidate for the office for which he was nominated, provided he meets the qualifications as prescribed under this Charter. The Council shall judge the qualifications of the candidate so nominated on the second Monday preceding the annual Town election and after 4:30 o'clock p.m. prevailing time of that said day. (58 **Del. Laws**, c. 352, 2/8/72)

Section 6. Time and Manner of Holding Elections**(a) Date, Notice, Ballots**

Annual Town elections shall be held on the first Saturday in August from 2:00 o'clock P.M. until 7:00 o'clock P.M., prevailing time, at such place as shall be determined by the Council, due notices of which shall be given by posting notices thereof in three of the most public places within the corporate limits of the Town not less than seven days prior to the day of such annual election. The Council shall have prepared sufficient ballots which will entitle all eligible voters to vote at such election and which shall contain the names of all persons properly nominated and under proper headings designating the offices for which nominated. Such ballots shall be delivered to the Election Board and every eligible voter shall receive one from

- the said Board during the hours of the said annual election. In the event voting machines are required, the ballots shall be prepared in accordance with the election laws of the State of Delaware. (55 **Del. Laws**, c. 210, 12/13/65, 58 **Del. Laws**, c. 352, 2/8/72)
- (b) Election Board
Every election shall be held under the supervision of an Election Board which shall consist of three qualified voters of the Town appointed for that purpose by the Council. If any member of the Election Board be absent at the opening of the polls then in such case the remaining members of the Board shall select a qualified voter to act as a member of the Election Board. Members of the Election Board shall be Judges of the Election and shall decide upon the legality of the votes offered and they shall keep a true and accurate list of all voters voting.
- (c) Persons qualified to vote. manner of voting
At such election every person, male or females above the age of twenty-one years who shall have been a bona-fide resident of the Town of Bowers for at least thirty days immediately preceding any such election, or whoever not being a resident of the town is a real property owner and in the town shall have one vote.. All votes shall be offered in person.. Every person, to be eligible to vote in any town election shall be registered with the Secretary at least thirty (30) days prior to the town election in a manner prescribed by the town council. (55 **Del. Laws**, c. 210, 12/13/65, 58 **Del. Laws**, c. 352, 2/8/72, 59 **Del. Laws**, c. 550, 7/26/74)
- (e) Counting Votes, Tie
Upon the close of the election the votes shall be read and counted in public and the person having the highest number of votes for each office shall be declared, by the Election Board, to be duly elected to serve the term for which he was chosen. In the event of a tie vote for any office, the Election Board shall break the tie by lot.
- (f) Certificates of Election, Preservation of Ballots
The Election Board shall enter in a book to be provided for that purpose, minutes of the election, containing the names of the persons chosen and they shall subscribe to the same and shall give to the persons elected certificates of their election. The book containing such matters, shall be preserved by the Town Council and shall be evidence in any Court of Law and Equity. All ballots cast and all records of the election shall be preserved in the custody of the Election Board for a period of twenty days.

Section 7. Organization

- (a) Oaths; Officers
The Council at their first regular meeting after said election shall meet first for the purpose of organization and the newly elected officers shall assume the duties of their respective offices, being first duly sworn to perform their duties with fidelity, which oath shall be taken before a Notary Public, Justice of the Peace or by a holding over member of the Council. The Council shall select a Vice-Mayor, a Secretary and a Treasurer from their own number to serve until the next annual organization meeting. They also may choose an Assistant Secretary and an Assistant Treasurer outside their number to serve until the next annual organization meeting. The Assistant Secretary and Assistant Treasurer shall receive such compensation as may be set by Council. The Assistant Secretary and Assistant Treasurer may be the same person. The Vice-Mayor shall exercise the powers and duties of the Mayor in his absence or disability. (58 **Del. Laws**, c. 352, 2/87/72)
- (b) Employees
The Council at such annual organization meeting shall also appoint and set the compensation for, by a majority vote, such officers, employees and agents of the Town which they may deem proper and necessary for the proper conduct and management of the Town, to serve until the next annual organization meeting.

Section 8. Meetings of Town Council

- (a) Regular Meetings

The Town Council shall hold one regular meeting every month and such meeting shall be held on the second Thursday of each and every month at a time and place within the corporate limits of the Town of Bowers as designated by the Council. (60 **Del. Laws**, c. 304, 1/22/76, 66 **Del. Laws**, c. 284, 6/28/88)

(b) Special Meetings

Special meetings may be called by the Mayor and shall be called by him upon the written request of any three members of the Council. The Secretary shall thereafter give notice to all members of the Council of the time and place of such special meeting and the subjects to be considered thereat. The Council shall have the same power and authority to transact all business at such special meeting as they would have at regular monthly meetings.

Section 9. Quorum

(a) Quorum

A majority of the members elected to the Council shall constitute a quorum, 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 adopted by a majority of the entire Council.

(b) Absent member

Any Council member, including the Mayor, who is absent from three or more consecutive regular meetings of the Town Council without good cause, may be removed from office by majority vote of the remaining members of Council. (66 **Del. Laws**, c. 284, 6/28/88)

Section 10. Rules and Minutes of Town Council

(a) Rules

The Council shall determine its own rules and order of business and shall keep a journal of its proceedings and the yeas and nays shall be taken upon the passage of every ordinance and resolution and shall be entered in the journal with the text of the ordinance or resolution.

Section 11. Mayor, Alderman, Justice of the Peace

(a) Duties

The Mayor of Bowers shall be sworn to perform the duties of his office with fidelity and as chief executive of the Town he shall preside at the meetings of the Council. He shall receive all communications and complaints and present the same to the Council. He shall sign all deeds necessary and contracts made by the Council and shall countersign all checks and warrants authorized by the Council and drawn on the Treasurer for the payment of money. He shall be a member, ex-officio, of all committees, and shall perform such other duties as may be prescribed by ordinance, or by the by-laws adopted by the said Council, and shall have all and every power conferred, and perform the duties imposed upon him by this Charter or the ordinance of the Town.

(b) Mayor can vote in Council

As a councilman of Bowers, he shall have the same right as other councilmen to vote on all matters and may at any time appoint another councilman to preside if he desires to make a motion, move the adoption of a resolution, second either, or debate any question from the floor and may thereafter immediately resume his duties as presiding officer.

(c) Powers of Justice of the Peace

As Mayor of the Town of Bowers he shall have all powers of a Justice of the Peace within said Town in criminal matters, and shall have jurisdiction and cognizance of all breaches of the peace and all other offenses, established by State law or by ordinance of Council, committed within the limits of the Town as far as arrest and hold to bail and fine and imprisonment of offenders. He shall have jurisdiction and cognizance of all fines and penalties prescribed by this Chapter, ordinances enacted hereunder, or any law of the State of Delaware; of all neglects, omissions or defaults of any member of the Police Force or other Town Officer, agent or employee; provided, that he shall impose no fine and penalty in excess of that fixed by

statute or ordinance: which, in any event, shall not exceed a fine of \$500.00, and shall not commit to prison for a longer term than thirty days. The jails or correctional institutions of Kent County may be used for imprisonment under the provisions of this Charter.

(d) Civil Jurisdiction

As Mayor of the Town of Bowers, he shall also have jurisdiction in suits of civil nature for the collection of taxes and assessments, recovery of amounts due and payable for the construction of sidewalks, boardwalks, Curbs or pavements, expenses of abatement of nuisances, and all other matters which may arise in the proper government and control of the Town under the provisions of this Charter. Within his jurisdiction, he shall have all the powers and authority and shall be subject to all the limitations of a Justice of the Peace of Kent County, and his fee shall be the same as those of a Justice of the Peace for like services. For any service or duty in which no fee is provided by law such fee shall be established by ordinance.

(e) Turn over of records

Upon the expiration of his term of office or upon resignation or removal from office, he shall forthwith turn over all records, books, papers, documents and other things belonging to or appertaining to the office of Mayor of the Town of Bowers. He shall also pay over to the Treasurer all money in his hands belonging to the Town,

(f) Alderman

In the event the Mayor does not desire to or is unable to perform the criminal and civil duties and exercise such powers imposed upon him under this Section, the Town Council may elect some suitable person to be Alderman to perform these duties, who may or may not be a Justice of the Peace and who must reside in the Town, to serve at the pleasure of the Town Council. He shall have all the powers and duties given to the Mayor under Sub-sections c, d and e of this Section. The Alderman shall report in writing all fines, penalties and money received by him when requested by the Town Council and he shall pay over to the Town Treasurer all such fines, penalties and money within ten days after making such report. Upon termination of the Alderman's office, he shall forthwith deliver to his successor all books, papers and documents pertaining to his office and make payment to the Town Treasurer all money belonging to said Town. Failure to make said reports when requested or failure to make said payments as provided herein shall cause the Alderman to be guilty of a misdemeanor.

(g) Justice of Peace to serve as Alderman

In the further event the Mayor and the Alderman do not desire or are unable to perform the criminal and civil duties and exercise such powers imposed upon them under this Section, or are temporarily unavailable, the nearest available Justice of the Peace who may or may not reside in the Town shall perform these said duties. All fines collected by a Justice of the Peace for violation of municipal ordinances shall inure to the Town.

(h) Appeals

Appeals of convictions under this Section shall be as appeals from decisions of Justice of the Peace under State law.

Section 12. The Secretary

(a) Duties

The Secretary shall have charge and custody of the books, journal, records, papers, seal and other effects of the Town and shall keep the same in a safe and secure place and deliver the same to his successor in office. He shall keep a full and complete record of all the Town transactions and proceedings and enter same into a journal. He shall attest the seal of the Town when authorized by the Town Council and perform such duties and have such other powers as may be prescribed by ordinances All records, books and journals in custody of the Secretary shall be open for the inspection of the Council and public, under such regulations as the Council may prescribe.

(b) Assistant Secretary

The duties and powers of the Secretary as hereinbefore prescribed shall devolve upon an Assistant Secretary in the absence or inability of the Secretary or as may be directed by the Council.

Section 13. The Treasurer**(a) Duties**

The Treasurer shall be custodian of all the Town funds and shall deposit them in such banking institutions as may be designated by the Council. The Treasurer shall pay out no money except upon check or warrant countersigned by the President or Secretary and authorized by the Council. He shall keep a true, accurate and detailed account of all money received and of all money paid by him, and his books and accounts shall be open to the inspection of the Council at all times. He shall make such reports as required by the Council and shall file a bond with corporate surety with the Council for the faithful performance of his duties, in such form and for such amount as the Town Council shall direct. He shall have such other powers and perform such other duties as prescribed by this Charter and by the Council.

(b) Assistant Treasurer

The duties and powers of the Treasurer as hereinbefore prescribed shall devolve upon an Assistant Treasurer in the absence or inability of the Treasurer or as may be directed by the Council.

Section 14. Audit**(a) Audit**

There shall be an annual audit of the books and accounts of the Town by an auditing committee appointed by the Council consisting of not less than two persons who shall make and deliver a detailed report of every and all accounts, books and records examined and audited by them to the Council.

Section 15. Police Force**(a) Organization**

It shall be the duty of the Council to appoint a Police Force, consisting of a Chief of Police and such number of subordinates as the Council may deem necessary. The Council shall from time to time make rules and regulations necessary for organization, government and control of the Police Force. The members of the Police Force shall be subject to the direction of the Town Council and may be removed by the Council at any time. They shall preserve peace and order, and shall compel obedience within the limits of the Town to the Town ordinances and State laws, and shall have such other duties as the Council from time to time, prescribe.

(b) Authority of Police Officers

Each member of the Police Force shall be vested within the Town limits and within one mile outside of said limits with all the powers and authority of a State Police Officer and a county constable, and in the case of a pursuit of an offender their power and authority shall be without territorial limitation.

(c) Imprisonment

Every person sentenced to imprisonment as provided herebefore shall be delivered by a member of the Police Force or other police officer to the Kent County Correctional Institution, to be there imprisoned for the term of the sentence.

(d) Detention of Suspects

Each member of the Police Force may detain any person arrested for a period of not over two hours before formal charges are made against such person. Once formal charges are so made, the person arrested shall thereafter within a reasonable time be taken before the judicial officer provided for under this Charter who will hear and determine the charge. If such judicial officer shall not be available to hear and determine the charge, the person arrested may be delivered to the Kent County Correctional Institution for imprisonment until such

reasonable time thereafter, as shall enable said judicial officer to hear and determine the said cause.

Section 16. Assessment and Collection of Taxes, Assessor, Tax Collector**(a) Assessor, Assessments.**

The Council shall appoint annually in March of each year an Assessor to make a just, true, and impartial annual assessment of all real estate within the limits of the town of Bowers. The Assessor shall also make an annual personal assessment of all citizens of the Town eighteen years of age or above. The Assessor, after making such assessments, shall before the last day in June of each year deliver to the Council a list containing the names of all persons assessed and the amount of assessment against each, distinguishing the real and person assessment of each person. Immediately after receiving the annual assessment list from the Assessor, the Town Council shall cause a full and complete copy of the same containing the amount assessed to each taxable person to be posted for seven (7) days in a public place in said Town. Notice of the posting of the list shall be posted in at least three (3) public places in the Town which shall also notify all concerned that the Town Council sitting as a Board of Appeals shall at their regular meeting on the first Thursday in July of each year hear appeals from said assessment and shall increase, decrease or abate such assessment if they deem such action necessary and just. The decision of the Town Council sitting as a Board of Appeals shall be final and conclusive. (59 **Del. Laws**, c. 550, 7/26/74, 66 **Del. Laws**, c. 284, 6/28/88)

(b) Tax Collector

The Council shall appoint annually, in March each year, a Tax Collector, who shall not be a member of Council, to collect all taxes levied by the Town. He shall receive such compensation as may be set by Council. Compensation may be either an annual salary or a percentage of collections or a combination of both. The Tax Collector shall post bond, with corporate surety, as approved by Council, for the faithful performance of his duties as Tax Collector. The Tax Collector shall promptly account to Council for all sums collected by him, at such times as Council may direct, but not less than annually.

(c) Levy of Taxes, Amount

The Town Council is authorized to levy and collect an annual tax on the assessed valuation on all real estate within the limits of the Town not to exceed in any one year ten (10%) percent of the assessed value of real estate within the limits of the Town. In addition to the annual tax herein authorized Council shall have the authority to levy or assess any other form of tax or assessment the Council deems to be in the best of interest of the Town, including, but not limited to a tax on the transfer of real estate, operation of businesses or any other activities within the Town. (66 **Del. Laws**, c. 284, 6/28/88)

(d) Tax List

Immediately after the regular meeting in July of each year, the Council shall at once cause to be made a full, true and correct annual tax list showing the amount of tax against each taxable thereon. Thereafter the Council shall at once deliver to the Tax Collector the tax list with a warrant to collect same immediately. (59 **Del. Laws**, c. 550, 7/26/74)

(e) Tax Bill

The Tax Collector shall within ten days after receipt of said tax list and warrant render to every taxable named therein an account or tax bill, showing the amount due the Town in taxes.

(f) Penalties

On all taxes paid after the last day of September in the year in which levied, a penalty in the sum of two per cent per month shall be added until the taxes shall be paid.

(g) List of Unpaid Taxes, Liens

All taxes due and payable on real estate shall be a lien on the real estate against which they are levied until paid. (58 **Del. Laws**, c. 352, 2/8/72)

Section 16A. Remedies, Powers and methods for Collection of Delinquent Taxes

- (a) Notice Prior to Exercise. Before instituting any legal action for the collection of taxes, written notice of the amount due shall be sent to the taxable at his/her last known address.
- (b) Tax Collector to Have All Powers Conferred Upon Receiver of Taxes of Kent County. In the collection of delinquent taxes, the Tax Collector shall have all of the same powers, remedies, and authority as conferred upon the Receiver of Taxes of Kent County under 9 Del.C. Chapter 87, as the same may from time to time hereafter be amended, or in accordance with any future corresponding provision of law. (54 **Del. Laws**, c. 221, 12/31/63, 66 **Del. Laws**, c. 284, 6/28/88, 77 **Del. Laws**, c. 249, 4/29/10)

Section 17. Budget

Annually each year but not later than the fifteenth day of March, the Town Council may adopt a budget containing the financial plan for the ensuing fiscal year. The budget, if adopted, shall contain the following information:

1. A detailed statement showing the expenses of conducting each department and office of the Town for the ensuing fiscal year.
2. The value of supplies and materials on hand, together with the nature and kind of any machinery or other implements and the condition thereof.
3. The amount of the debt of the Town, together with a schedule of maturities of bond issues, if any
4. An estimate of the amount of money to be received from taxes and all other anticipated income of the Town from any source or sources.

The Town Council shall if the budget is adopted, so far as possible adhere to the budget so adopted in the making of appropriations but may revise the same whenever, in the opinion of the Town Council, such revision shall become necessary or advisable.

Section 18. Board of Health

- (a) The Town Council may at their discretion appoint a Board of Health who may or may not be residents of the Town and if and when appointed said Board of Health shall be composed of three members. The Board shall serve for one year and shall have cognizance of all matters pertaining to the life and health of the residents of the Town and shall report to the Town Council in writing whatever is deemed by the Board to be injurious to the health and welfare of the people of the Town. It shall make such recommendations to the Council as may, in its judgment, be beneficial or in any way contribute to the sanitation or public health. The Board shall also have all powers enumerated by the laws of the State of Delaware for local Boards of Health. The power of the Town Council to adopt ordinances relating to the health of the population of the Town, or to prevent the introduction or spread of infectious or contagious disease or nuisances affecting the same shall extend to an area within one mile outside of the limits of the Town. In the event the Town Council does not deem it necessary to appoint a Board of Health as herein provided, said Town Council shall have all of the duties and powers herein conferred upon the Board of Health.

Section 19. General Powers

- (a) Generally

The Town of Bowers, Delaware, shall have all powers granted to municipal corporations and to cities and Towns by the Constitution and general laws of the State of Delaware together with all the implied powers necessary to carry into execution all the powers granted. It shall have perpetual succession, and may have and use a corporate seal, which may be altered, changed, or renewed at pleasure; may sue and be sued, plead and be impleaded in any and all courts of law or equity in the State of Delaware and elsewhere by its corporate name, and, acquire within or without its corporate limits for any purpose, to take, hold, receive and enjoy, any lands, tenements and hereditaments, in fee simple or for a lesser estate or interest, and also goods, chattels, rights and credits, and may sell, lease, hold, manage and control any

such property or properties in such manner as the Town Council may deem expedient and proper for the purposes expressed herein; may appoint such officers and agents and employ such persons as shall be deemed necessary or convenient for the management of the affairs of the Town and may fix and determine the compensation of such officers, agents or employees

(b) All other powers

It shall have all other municipal powers and functions, rights, privileges and immunities requisite to or appropriate for the government of the Town, or necessary to the public health, safety, comfort or welfare or the protection and preservation of public and private property; not inconsistent with any general laws of the State: and all actions, suits and proceedings shall be brought in the name of the "TOWN OF BOWERS".

(c) Enumeration not exclusive

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 and implied thereby, or appropriate to the exercise thereof, it is intended that the TOWN OF BOWERS, shall have and may exercise all powers, not contrary to general State law, which under the Constitution of the State of Delaware, it would be competent by this Charter specifically to enumerate. All powers of the Town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in a manner provided by ordinance or resolution of the Town Council.

Section 20. Enumerated powers

(a) Vice; exhibitions : racing; vehicles; animals; privies; vagrants

By ordinance, rules, regulations, resolutions, and by-laws or amendments to the same, THE TOWN OF BOWERS, for the good government and welfare of the Town, shall have the following powers (which shall not be deemed to be exclusive) : to prevent vice, drunkenness and immorality; to preserve peace and good order, to restrain and suppress disorderly houses, gambling houses, houses of ill-fame; to restrain and suppress all instruments and devices for gaming: to prohibit all gaming and fraudulent devices; to prohibit, restrain and regulate all sports exhibitions of natural or artificial curiosities; caravans of animals, theatrical exhibitions, Circuses or other public performances and exhibitions for money and to license the same: to prevent any horse racing in any street, highway, alley or strand, to authorize the stopping and detention of any person who shall be guilty of any immoderate riding or driving of any horse, or other animal, motor vehicle or other vehicle upon any street, alley, highway, or beach strand, to regulate, control or prohibit the parking of vehicles upon the streets of the Town, to regulate or prohibit the riding or driving of any horse or other animal, motor vehicle or other vehicle upon any beach or strand; to establish and regulate one or more pounds, and to restrain the running at large of horses, cattle, swine, goats or other animals, or geese, chickens, ducks or other poultry, and to authorize the impounding and sale of the same for the penalty incurred, and the cost of keeping, impounding, and sale; to authorize the destruction of dogs running at large and to impose taxes on the owner of dogs, to locate, regulate and remove slaughter houses, swine pens, privies and water closets; to restrain drunkards, vagrants, mendicants and street beggars.

(b) Streets; beach; strand; gutters; nuisances

THE TOWN shall, in a like manner, have the power to ascertain the boundaries of all streets, avenues, highways, lanes, alleys, strands or beaches; to prevent and remove all encroachments on public streets, avenues, highways, lanes, alleys, beach or beach strands to regulate, clean and keep in repair, the streets, highways, lanes, alleys, beach, beach strands, boardwalks, wharves, docks, sidewalks, crosswalks, sewer drains, aqueducts, and water courses, and to prevent and remove obstruction in and upon the same in any manner whatsoever; to level, grade, flag or re-flag, curb or re-curb, gutter or regutter, pave or re-pave, macadamize, gravel or shell the streets, highways and alleys of said Town, and the sidewalks, crosswalks, and gutters thereof, or any of them or any parts or sections of the same, to prescribe the manner in which such work shall be performed; to enforce the removal of snow,

ice and dirt from sidewalks and gutters by the occupant or owner thereof, to prevent or regulate the erections of any stoop, step, platform, bay window, cellar door, gate area, descent into a cellar or basement, sign or post, or the erection of any projection or otherwise, in, over, under or upon any public beach, strand, street, sidewalk or avenue, and to remove the same where already erected, at the expense of the owner or occupant of any lot, house, building, shed, cellar or place wherein may be carried on any business or calling, or in or upon which there may exist any matter or thing, which is or may be detrimental, in the opinion of the Town Council, or Board of Health, to the health of the inhabitants of the Town, to cleanse, remove or abate the same, under the direction of the Town Council as often as the said Town Council or Board of Health may deem necessary for the health and well-being of the inhabitants of the Town; or to cause the same to be done at the expense and proper cost of such owner or occupant; and such owner or occupant is hereby expressly made liable for said costs and expenses, to be collected, as provided for in Section 21, from such owner, or occupants in addition to any fine or penalty which, he, she, they or it may be liable for maintaining such nuisance.

(c) Contracts; franchises; permits :public places; peddlers

THE TOWN shall, in a like manner, have the power to prescribe the manner in which all contracts for performing work or furnishing materials for the Town shall be made and executed, to prescribe the manner in which corporations or persons shall exercise any privileges granted to them in the use of any street, avenue, highway, alley, beach or strand in said Town, or in digging up any street, avenue, highway, or alley, beach or strand for the purpose of laying down pipes, or for any purpose whatsoever, and to prohibit and prevent any such use or work at such times and seasons of the year as they may designate, to enter into contract or contracts with, or to grant franchises, concessions, or right to any person, firm, partnership or corporation who may apply for the use of any street, highway, avenue, lane, alley, beach or strand for the purpose of furnishing communication services, electric lights, power, gas, heat or water to said Town and its inhabitants, or for the constructions and operation of railways route, grant franchises to and enter into contract or contracts with other public carrier or for the construction and operation of sewer or other sanitary systems of drainage or for the erection of wharves or piers; to regulate, protect and improve the public places of every description in said Town; to prescribe and regulate the places of vending or exposing for sale of any and all articles of merchandise from wagons or other vehicles.

(d) Trees, Grading, Building Code, Zoning, Ashes, Inspections, Sewers, Waters

THE TOWN shall, in like manner, have the power to direct and regulate the planting, rearing, treatment and preserving of ornamental shade trees in the streets, highways, avenues, parks and grounds in said Town and to authorize and prohibit the removal or destruction of said trees, to direct the digging down, draining, filling-up or fencing of lots, tracts, pieces or parcels of ground in said Town, which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by the Town or this Charter; to prescribe the manner in which such work shall be performed, and to cause the expenses thereof to be assessed on such lots, tracts, pieces, or parcels of ground, whether improved or unimproved, and to determine the time and manner in which such assessment shall be collected; to regulate and control the manner of building or removing of dwelling houses, chimneys or other buildings, and to establish a code for the same; to regulate and restrict the height, number of stores, and size of buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of building, structures, and land for trade, individual residences, or other purposes, and is granted the authority and power vested in municipalities by Chapter 3, Title 22, Delaware Code, entitled "Municipal Zoning Regulations", and any amendments thereto; to prohibit the deposit of ashes in unsafe places, and to authorize any Town Officer or Constable or person whom they may designate for the purpose to enter upon and inspect any place or places for the purpose of ascertaining whether the same is or are in a safe condition, and if not, to direct or cause the same to be made so; to make, adopt and promulgate all rules and regulations relative to the use of any sewer in said Town and the tapping thereof, including the charge and fee therefor, as they shall deem proper, and they may also adopt ordinances prescribing

penalties for any injuries to the said sewer or any part thereof; or for any abuse of any privilege granted in connection therewith, to prescribe the material or private drains or sewers which shall enter into any Town Sewer, and shall direct the manner in which they shall be laid; to regulate and prohibit swimming, bathing or boating in the waters within the limits of the town; and to enforce Chapter 21, Title 23, Delaware Code.

(e) Fire Regulations

THE TOWN shall, in like manner, have the power to promulgate, amend and repeal regulations for the safeguarding of life and property from the hazards of fire and explosion. Such regulations, amendments, or repealers shall be in accordance with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection. In their interpretation and application, the regulations promulgated under this Section shall be held to be the minimum requirements for the safeguarding of life and property from the hazards of fire and explosion. The Town may, in lieu of adopting its own regulations, enforce the regulations as promulgated by the State Fire Prevention Commission pursuant to Chapter 66, Title 16, Delaware Code, as amended. The Town shall have the power to condemn, under the provisions of Chapter 61, Title 10, Delaware Code, buildings and structures which are a fire and health hazard. The Council may appropriate annually such sums as deemed desirable to any duly organized fire company operating within the Town.

(f) Maintenance of Lots

THE TOWN shall further have the power and authority to compel the owner's of property within the limits of the Town to keep the same free from unsanitary or unsightly conditions, clear of tall weeds and rubbish, and to fill in any low lots, provided that the Town Council in its opinion shall deem the same to be unsanitary or unsightly or in any other manner prejudicial to the welfare of the Town or adjoining lot owners. The Town Council shall have the power and authority to pass any ordinance prohibiting or regulating the same.

(g) License Fees

THE TOWN shall, in like manner, have the power and authority to collect license fees annually, of such various amount or amounts as the Town Council shall, from time to time, fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of the Town, provided however, that nothing herein shall be so construed as to make it mandatory upon any resident of the State of Delaware to apply for a license in order to sell, in the Town, farm produce or any farm products grown on his or her farm.

(h) Business License

THE TOWN shall also have the power and authority to levy and collect license fees upon the property of any person, firm, association or corporation carrying on business in the Town and supplying the inhabitants thereof with any form or manner of services for any valuable consideration.

(i) Other Ordinances Generally

The Town Council shall have the power to make and establish such other ordinances, regulations, rules and by-laws, not contrary to the laws of this State, or of the United States, as they may deem necessary to carry into effect the powers and duties imposed upon them by this Charter or any other law of this State, and such also, as they may deem necessary and proper for the good government, protection or preservation of persons and property, or for the preservation of the public health of the City and its inhabitants.

Section 21. Power to Remove Obstructions, Nuisances, Unsanitary or Unsightly Conditions

(a) Generally

In addition to the power to impose fines and penalties for the maintenance of obstructions, nuisances, or unsanitary conditions, as these terms shall be defined by the Town Council either upon their own inspection or upon information obtained from the Board of Health, Police Force, or citizens of the Town, if the Town Council shall deem that such obstruction, nuisance, or unsanitary condition should be removed or abated, as the case may be, the Town Council shall enact an ordinance or adopt a resolution, or both, to that effect, and thereupon shall

direct the Secretary to forward by registered mail of the United States, in a sealed wrapper, addressed to his or her last known post office address or deliver personally to the person or persons continuing or causing such obstruction, nuisance, or unsanitary conditions, or to the person or persons who are responsible for its existence or continuance a notice to remove or abate the same. If such person or persons refuse or neglect, for the space of fifteen (15) days after such notice is mailed or for the space of two (2) days if said notice is delivered in person, to remove or abate the same, the Town Council shall issue a warrant in the name of the TOWN OF BOWERS, commanding such person or persons forthwith to remove or abate such obstruction, nuisance, or unsanitary condition, and shall forthwith proceed to remove or abate the same and, to that end, shall have full power and authority to enter into and upon any lands and premises within the limits of the Town. The Town Council, or anyone designated by them, shall likewise have the authority to take with them such assistants, implements, machinery or other things as may be necessary and proper to do and perform all matters and things in connection with the removal or abatement of such obstructions, nuisance, or unsanitary condition. At the next regular or special meeting of the Town Council, the Town Council shall specify the costs and expenses of all necessary work, labor and proceedings incurred in the abatement or removal of the same. The Town Council shall then issue a warrant, containing an itemized account thereof, together with the name and last known address of the person from whom the Town Council shall have determined the amount due and shall deliver such warrant to the Treasurer of the Town. The warrant shall command the Treasurer forthwith to collect the amount stated to be due thereon from the person or persons designated therein. The Treasurer shall forward to such person or persons in a sealed wrapper a true and correct copy of the warrant by depositing the same in the United States mail and addressed to such person or persons last known post office address or serve personally upon said person if he be within the limits of the Town. If such person or persons shall refuse or neglect to pay the same within thirty (30) days from the date of the mailing of such notice and exact copy of the warrant, or the service of the same personally upon such person or persons, the Treasurer shall then be authorized and required to collect the same in the same manner as herein provided for the collection of delinquent Town taxes.

Section 22. Sidewalks, Boardwalks, Curbing and Gutters

(a) Generally

In respect to leveling, grading, flagging or re-flagging, curbing or re-curbing, guttering or re-guttering, paving or re-paving, building or re-building, the sidewalks, boardwalks, crosswalks, and gutters of the Town, the expense thereof shall be borne by the owner of the property abutting upon the same, and the Town Council shall have the authority to specify the manner of performance and the materials to be used therein.

(b) Notice to Repair

The Town Council shall direct a written notice to the owner or owners of any house or lands in said Town, along, in front of or adjoining which they deem proper that a pavement, sidewalk, boardwalk, curb or gutter, be laid or constructed or both, and the Town Council shall have the authority to specify the manner of performance and the materials to be used therein. Letters to one joint owner shall be notice to all. In case the owner shall not reside in the Town at the time, notice to the occupant or tenant shall be deemed to be a sufficient notice. If there be no occupant or tenant residing in the Town at the time, such notice may be sent by mail to the owner, directed to him or her at his or her last known post office address. Should such owner neglect or refuse to comply with said notice for the space of thirty (30) days, the Town Council shall issue a warrant in the name of the Town, directed to the Treasurer or the Chief of Police, demanding such person forthwith to do their work as specified in the above mentioned notice to the owner or owners. Whereupon the person to whom said warrant shall have been directed shall forthwith proceed to lay such pavement, sidewalk, curbs or gutters, or either or both, as directed in the warrant. To that end he shall have full power and authority to enter in any premises or lands of the Town, and to take with him such assistants, materials, implements, machinery or other things as may be necessary or proper to perform the work specified in the warrant. At the next regular or special meeting of the Town Council, after the delivery of the

warrant, upon return thereon accompanied by an itemized statement of all costs incurred in the performance of necessary work and labor incident thereto, the Town Council shall determine the amount due the Town by reason of the work done, and shall issue a warrant thereon, direct to the Treasurer or Chief of Police, which shall contain the amount to be by him collected, and the person or persons from whom it shall be by him collected and commanding him forthwith to collect the same from the person or persons so specified in the warrant. A true and exact copy of this warrant shall be mailed or served upon the person or persons therein specified. If the amount specified as due the Town shall not have been paid to the Town within thirty (30) days from the date of service of such true and exact copy of the warrant, the Treasurer shall then be authorized and required to collect the same in the same manner as herein provided for the collection of delinquent Town taxes.

Section 23. Opening or vacating streets**(a) Generally**

THE TOWN shall have the power and authority to locate, lay out and open new streets and to widen or abandon the same, or parts thereof, whenever the Town Council shall deem it for the best interest of the Town. In such case, the Town Council shall adopt a suitable resolution, which shall include a general description of the street to be opened, widened or altered or to be vacated or abandoned, as the case may be, stating the day, hour and place where the Town Council will sit to hear and determine objections, and to offer damages by reason thereof. Copies of such resolution shall be posted in at least three public places in the Town at least five days prior to the day fixed by the Town Council for the hearing referred to in said resolution.

(b) Hearings

At said hearings, the Town Council shall hear objections to the proposed. resolution and to hear testimony as to any damages which might be sustained by any owners of property affected thereby, and shall set what they deem to be just and reasonable compensation to any person or persons who shall be deprived of property by virtue thereof. Such compensation, if any be set, shall be paid by the Treasurer of the Town, on a warrant drawn upon him by the authority of Town Council if a street is to be laid out, opened or widened no payment shall be made until delivery of a good and sufficient deed conveying a fee simple title of the street unto "The Town of Bowers" which title shall be clear and free of all liens and encumbrances.

(c) Condemnation

In the event any person refuses to accept the award of damages made by the Town Council, the Town Council may proceed in the name of the Town to condemn the property of the person refusing to accept said award, under the provision of Chapter 61, Title 10, Delaware Code, as amended.

Section 24. Jetties, Bulkheads, Embankments and Boardwalks**(a) Generally**

The Town shall have the power and authority to locate, lay-out, construct, widen, extend, improve, repair, vacate or abandon jetties, bulkheads and embankments for the preservation of any beach or strand within the limits of the Town or contiguous thereto, to the end that the same may be preserved and property may be protected, or boardwalks and piers, to the end that the general public might enjoy the use thereof. In the locating, laying-out, constructing, widening, extending, improving, repairing, vacating or abandoning of any such jetties, bulkheads, embankments, boardwalks and piers, the Town Council shall have full power and authority to use such materials and substances and such methods of construction and shall employ such contractors, engineers, inspectors and others as the Town Council shall deem expedient and advisable.

(b) Condemnation

The Town Council may, by condemnation proceedings, take private lands or the right to use private lands for any of the purposes mentioned in this Section. The proceedings by condemnation under this Section shall be the same as prescribed in Section 23 of this Charter

for the opening and laying-out of new streets or the vacating or abandoning of old streets, and the resolutions referred to in said Section 23 shall be changed and modified to cover cases contemplated by this present Section.

Section 25. Drainage

(a) Generally

The Town shall have the full jurisdiction and control, within the limits of the Town, of the drainage of all water thereof, together with the right to alter and change the course and direction of any of the natural water courses, runs and rivulets within the limits of the Town, and may pass ordinances for the opening of gutters, surface water and underground drains and sewers within the limits of the Town. The Town shall also have full power to regulate, maintain, clean and keep the natural water courses, runs and rivulets within the Town limits open and clean and unobstructed, and for that purpose may authorize the entry upon private lands and take, condemn and occupy the same in the same manner and by the same condemnation proceedings as hereinbefore provided by Section 23 of this Charter; which is concerned with the opening and laying-out of any streets. By like proceedings the Town shall also have the power and authority to enter upon private lands and take, condemn and occupy the same for the purpose of laying down gutters, surface water and underground water drains or sewers, or any of them, within the Town limits. Provided, however, that the resolutions referred to in Section 23 of this Charter shall be changed and modified to cover those cases contemplated by this particular Section of the Charter.

Section 26. Additional Rights of Condemnation

(a) Generally

The Town shall have the power to acquire lands, tenements, property or interest therein, by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewerage disposal and or for any other municipal purpose, whether within or without the limits of the Town. The procedure shall be in accordance with and under the provisions of Chapter 61, Title 10, Delaware Code, as amended.

Section 27. Power to Borrow Money and Issue Bonds

(a) Right to Borrow Money

The Council may borrow money and issue bonds or certificates of indebtedness to secure the payment thereof on the faith and credit of the Town of Bowers, to provide funds for the erection, the extension, the enlargement, the purchase or the repair of any plant, machinery, appliances, or equipment for the supply, or the manufacture and distribution of electricity or gas for light, heat or power purposes; for the furnishing of water to the public; for the construction, repair or improvement of highways, streets, lanes, the strand, sea walls, boardwalks or docks, or the paving, curbing or erection of gutters or sidewalks; for the construction or repair of sewers or sewage disposal equipment; or to defray the cost or the share of the City of the cost of any permanent municipal improvements; provided, however, that the borrowing of the money therefore in excess of fifty thousand dollars shall have been authorized by the Council and shall have been approved by the electors in the manner and at the time as hereafter set forth.

(b) Approval by Electors, Resolution

Council by resolution shall propose to the electors of the Town by resolution that the stated amount of the money shall be borrowed for any of the above purposes. The resolution shall state the amount of the money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and other pertinent facts relating to the loan which are deemed pertinent by the Council and in their possession, and shall fix a time and place for hearing on the said resolution.

(c) Notice of Hearing

Notice of the time and place of the hearing on the resolution authorizing said loan shall be printed in a newspaper of general circulation in the Town.

(d) Second Resolution

A Second Resolution shall then be passed by Council ordering a special election to be held not less than thirty days and not more than sixty days after said hearing to borrow the said money, for the purpose of voting for or against the proposed loan. The passing of the second Resolution calling the special election shall ipso facto be considered Council's determination to proceed in the matter in issue.

(e) Notice of Election

The notice of the time and place of holding the said special election shall be printed in two issues of a newspaper of general circulation in the Town within thirty days prior to the election, and posted in at least three public places within the Town at least 30 days prior to the election.

(f) Votes

At the special election, every owner of property whether individual, partnership, or corporation shall have one vote for every dollar or part of dollar of tax paid by said owner during the year preceding said election, and the said vote may be cast either in person or by proxy.

(g) Ballots

The Council shall cause to be prepared, printed and have available for distribution a sufficient number of ballots at not less than five days prior to the date of the special election. the Council shall conduct the election.

(h) Result

The Council shall publicly count the votes for and against the proposed loan; and shall announce the result thereof; shall make a certificate under their hands of the number of votes cast for and against the proposed loan, which said certificates shall be entered on the minutes of the Council, and the original shall be filed with the papers of the Council.

(i) Form of Bonds, Sale thereof

The form of bond or certificate of indebtedness, the interest rate, the time of payment of interest, the classes, the time of maturity, and provisions as to the registration shall be determined by the Council after said special election. The bonds shall be offered for sale to the best and most responsible bidder therefor after advertisement in a manner to be prescribed by the Council for at least one month before offering the same for sale. The Council shall provide, in its budget, and in fixing the rate of tax, for the payment of interest and principal of said bonds at the maturity or maturities thereof, and a sinking fund therefor. The faith and credit of the Town of Bowers shall be deemed to be pledged for the due payment of the bonds and interest thereon issued under the provisions hereof, where the same have been properly executed and delivered for value.

(j) Maximum Bonded Debt

The bonded indebtedness shall not at any time exceed in the aggregate the total sum of Ten (10%) per centum of the value of the real property situate within the limits of the Town as shown by the last assessment preceding the creation of the said indebtedness.

Section 28. Construction

The powers of the Town under this Act shall be construed liberally in favor of the Town, and the specific mention of particular powers in this Act shall not be construed as limiting in any way the general powers stated in this Act and to that end the Town shall have and possess all powers and authorities which would be competent for the General Assembly of this State to give to the Town. (66 Del. Laws, c. 284, 6/28/88)

Approved January 2, 1962.

(53 **Del. Laws**, c. 279, 1/2/62, as amended by 54 **Del. Laws**, c. 221, 55 **Del. Laws**, c. 210, 58 **Del. Laws**, c. 352, 59 **Del. Laws**, c. 550, 60 **Del. Laws**, c. 304, 66 **Del. Laws**, c. 284, and 77 **Del. Laws**, c. 249, 04/29/10)