

## Slaughter Beach

### §1. Body Corporate.

The inhabitants of the Town of Slaughter Beach, Sussex County, Delaware, are hereby constituted a municipal corporation and body politic. The name and style of said corporation shall be 'The Town of Slaughter Beach' by which name the said corporation may sue and be sued, plead and be pleaded, complain, answer and defend in all courts of this State.

### §2. Boundaries and Town Plot. The present boundaries of the Town of Slaughter Beach were established by three separate Acts, as follows:

- 2.1 'Original' boundaries (37 Delaware Law Chapter 167). BEGINNING at the center of the road now leading into the Town of Slaughter Beach over the bridge to the west of said Town, where it intersects the road called Bay Avenue that has been built just back of, and to the west, of the principal row of cottages in said Town of Slaughter Beach, thence from said point one mile to the north. A line drawn through this terminal point between the Bay and the Canal to the west of the Town, shall constitute the Northern boundary of the said Town. The Southern boundary of the said Town shall be a line drawn through a point one mile south from the point of beginning, between the Bay and the Canal to the west of the Town, both of said boundary lines to be parallel to the main road now leading into the Town from the west over the Canal. The Eastern boundary line of the Town shall be the Delaware Bay and the Western boundary line shall be the Canal to the west of the Town.
- 2.2 'Cedar Beach Annexation' (52 Delaware Laws Chapter 224). The boundaries of the Town of Slaughter Beach are extended to include the lands or territory formerly known as Cedar Beach, bounded and described as follows, to wit: BEGINNING at a stone on the shore of Delaware Bay, a corner for lands of William V. Benson and Clessen E. Bridgham; thence with said lands, south seventy-two (72) degrees four (4) minutes west six hundred thirty-four (634) feet crossing the Slaughter Beach to Cedar Beach State Highway to a stone in old Cedar Creek; thence with the said old Creek, westerly about twelve hundred (1200) feet to a corner for lands formerly belonging to the heirs of Henry May, deceased; thence with said lands and a survey of the year 1885 north fifty-five (55) degrees west fifty (50) perches to a stone on Cedar Island (as represented by a plot of the Dorsey lands as recorded in Orphans Court of Sustain County, Book No. 36 at Page 491); thence north thirteen and one-half (13 1/2) degrees east two hundred forth-eight (248) perches to a point in the center of the old dirt road leading to the former location of the Cedar Beach Hotel (said line passes twenty-two and one-half (22 1/2) feet to the west of a dwelling on the King land); thence with the center of said dirt road south seventy-six (76) degrees eight (8) minutes west two hundred fifty-nine and one-third (259 1/3) feet; thence leaving said road and with lands of Laura Roberts and J. Cecil Watson, passing seven and one-half (7 1/2) feet north of the northeast corner of a dwelling on the Roberts lot, north seventy-two (72) degrees twenty-five (25) minutes west, eight hundred sixty-seven (867) feet to the canal connecting Cedar Creek with Mispillion River near the Light House; thence with said canal, north thirty-five (35) degrees twenty-five (25) minutes east thirteen hundred fifty (1350) feet to a ditch and a stone; thence with said ditch, north sixty-seven (67) degrees east seven hundred eighty-three (783) feet to a stone; thence two other courses with what was formerly a ditch south sixty-two (62) degrees east one hundred eighty-six (186) feet to a stone; north eighty-three and one-quarter (83 1/4) degrees east four hundred forty (440) feet to a stone at Delaware Bay; thence along Delaware Bay southerly to the place of beginning.
- 2.3' Marvel Lands' Annexation (61 Delaware Law Chapter 100). ALL that certain tract, piece and parcel of land, lying and being in Cedar Creek Hundred, Sussex County and State of Delaware, fronting on the Southwesterly side of the 60 foot right-of-way of County Route 204, adjoining other lands of grantees and other lands of grantors, and more particularly described as follows, to-wit: BEGINNING at a concrete monument set on the Southwesterly right-of-way line of County Route 204, at the northwesterly corner of other lands of grantees; thence proceeding with said other lands of grantees; South 14 degrees 35 minutes 24 seconds West 978.27 feet to an iron pipe set at the northeasterly corner of lands of the heirs of Frank Davis

Watson; thence running with said lands of the Watson heirs North 75 degrees 35 minutes 36 seconds West 421.40 feet to an iron pipe in line of other lands of grantors; thence following said line of other lands of grantors North 14 degrees 35 minutes 24 seconds East 1078.91 feet to an iron pipe set on aforementioned southwesterly right-of-way line of County Route 204; thence running with said right-of-way line South 62 degrees 18 minutes 16 seconds East 390.37 feet; thence finally continuing with said right-of-way line and deflecting right along a 718.95 foot radius curve, the chord of which bears South 60 degrees 26 minutes 22 seconds East 42.62 feet an arc distance of 42.62 feet to the place of BEGINNING, containing 9.956 acres of land, more or less.

The Town Council may cause an appropriate plot or plots of the Town's territory(s) to be recorded at the Office of the Recorder of Deeds in and for Sussex County.

### §3 Town Council.

The government of the Town and the exercise of all powers conferred by this Charter except as otherwise provided herein shall be vested in and exercised by a Town Council composed of five members. They shall elect a Mayor, a Vice-Mayor, a Secretary, and a Treasurer from among their own number.

- 3.1 Qualifications. No person shall be eligible to serve as a member of the Town Council unless he or she:
  - 3.1.1 is at least 21 years of age;
  - 3.1.2 has not been convicted of a felony or any crime involving moral turpitude;
  - 3.1.3 has, for a period of not less than six consecutive months prior to the date of the election, been either:
    - (a) a freeholder or
    - (b) domiciled in the Town as those terms are defined in §3.5 hereof.
  - 3.1.4 is otherwise qualified to vote in the Annual Town Election in accordance with §3.5.
- 3.2 Council to Act as Final Judge. The Town Council, by majority vote of its disinterested members, shall be the sole and final judge of the qualifications of its members, and shall interpret and apply the standards set forth in this Charter.
- 3.3 Term of Office. The term of office for each member of the Town Council shall be two years from the first Monday following the election, or until his or her successor has been duly elected and qualified. The present members of the Town Council of Slaughter Beach, and other officers appointed to serve, in office under Chapter 37 volume 167, Laws of Delaware, as amended, shall continue to serve in office from and after the effective date of this Charter, until their successors are duly elected or appointed. At the Annual Town Election in 1994, three (3) persons shall be elected to the Town Council to replace those outgoing members of the Council whose terms expire in 1994; and, at the Annual Town Election in 1995, two (2) persons shall be elected to replace those outgoing members whose terms expire in 1995. Thereafter, two (2) members of the Town Council will be elected in odd years, and three (3) members shall be elected in even years.
- 3.4 Notice of Elections; Nomination; Annual Election.
  - 3.4.1 Notice; Nomination. The Town Council shall be nominated as follows: The Town Council shall cause notice of the date of the annual election and the requirements and qualifications for election to the Town Council to be posted in at least three (3) public places in the Town and published in a newspaper of general circulation at least once not less than 30 days before the Annual Town Meeting. Any person qualified to hold the office of Councilmember may register as a candidate for election to Town Council in that election. To register as a candidate for Councilmember, a person shall file a Certificate of Intent with the Mayor or Secretary, which certificate shall be in writing, signed by the candidate, and shall state his or her intention to be a candidate for election to Town Council in the next succeeding election. In addition, each certificate shall be endorsed by five persons qualified to vote in that election. Certificates of Intent shall be filed not sooner than sixty (60) days before, nor later than the adjournment of the Annual Town Meeting

which shall be held on the second Saturday in June. No person shall be eligible to be elected unless duly registered and qualified according to this section.

- 3.4.2 Date. The Annual Election shall be held on the first Saturday in July of each year at such time and place within the Town as shall be determined by the Town Council.
- 3.5 Voter Qualifications. Any person shall be qualified to vote who, on the date of the election, is a United States citizen, has attained eighteen (18) years of age, and, for a period of not less than four (4) consecutive months immediately preceding the date of the election has been either: (a) a freeholder in the Town or (b) has been domiciled in the Town. For purposes of this Charter: (i) a 'freeholder' shall be deemed to include any natural person who holds title of record to a fee simple estate or to a life estate, in and to real property located within the Town boundaries; (ii) 'Domiciled' shall mean physically residing in that place where a person has his/her true, fixed, and permanent home and principal establishment, and to which, whenever he or she is absent, that person has the intention of returning; provided however, that absence from one's place of domicile for some temporary purpose shall not terminate that domicile so long as the intention to return to that place remains fixed, certain, and constant during the period of physical absence. These rules shall be construed in accordance with the principle of 'one-person-one vote'. When a voter is entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one vote; where a voter is entitled to vote by virtue of ownership of two or more properties in the Town, that voter shall be entitled to only one vote.
- 3.6 Notice of Elections. At least ten (10) days prior to the day of the election, the Town Council shall cause to be posted notice thereof in at least three public places within the Town, which notice shall state the day, hours, and place of election, the number of Councilmembers to be elected, the names of the candidates, and the terms for which they are to be elected. In addition, notice containing the same information shall be published at least once in a newspaper of general circulation within the Town at least ten (10) days prior to the day of the election.
- 3.7 Election Board. Every election shall be held under the supervision of an Election Board. The Election Board shall consist of one (1) Inspector of the Election and two (2) Judges of the Election. The Inspector and Judges constituting the Election Board shall be qualified voters of the Town and shall be appointed for that purpose by the Town Council at least twenty (20) days before such election. If, at the opening of the polls, there shall not be present the members of the Election Board, then in such case the ranking Town officer available at the opening of the polls shall appoint a qualified voter or voters to act as a member or members of the Election Board to fill such vacancies caused by the absence of members of the Election Board. Members of the Election Board shall be the sole and final judges of the conduct of the election and of the legality of the votes offered. The Election Board shall have the power to subpoena persons, and officers of the Town, and books, records and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered.
- 3.8 Election Results. Upon the close of the election, the votes shall be read and counted and the persons having the highest number of votes shall be declared, by the Election board, to be duly elected to such vacant offices as then exist, and such persons shall continue in office during the terms for which they were chosen, or until their successors are duly elected or appointed and qualified.
- 3.9 Ties. In the event of a tie vote for any office, the Election Board shall determine such tie by lot.
- 3.10 Preservation of Ballots and Records. All ballots cast and all records of the election kept by the Election Board shall be preserved in the custody of the Election Board for a period of ten (10) days, unless an appeal is filed in a court of appropriate jurisdiction.
- 3.11 Election Record Book. The Election Board shall enter in a book, to be provided for that purpose, the results of the election, containing the names of the persons elected. The members of the Election Board shall subscribe the same. The book, containing such matters, shall be preserved by the Town Council.

- 3.12 Uncontested Elections. Where there is only one official candidate for each office, if none of the official candidates has a formal opponent on the day of election, the official candidates may assume office without the holding of a formal election.
- 3.13 Voter Registration; Absentee Ballots. The Town Council may, but shall not be required to, enact ordinances providing for the registration of qualified voters and/or the casting of absentee ballots.

#### **§4. Organization of Town Council.**

On the first Monday following the annual election, the Town Council shall meet and organize by the election of a Mayor, a Vice-Mayor, a Secretary, and a Treasurer, all of whom shall be Town Councilmembers. Before entering upon the duties of the offices, the newly elected Councilmembers shall be sworn in by a Notary Public or by a holdover member of the Town Council, to faithfully and impartially perform their duties.

##### 4.1 Mayor.

- 4.1.1 General Duties and Powers. The duties of the Mayor shall be to preside at all meetings of the Town Council, to serve as the head of Town Government for all ceremonial purposes or for purposes of military law, and to have general superintendence of all Town affairs; provided, however, that such general superintendency shall in all cases be subordinate to the authority of all committees and appointees as selected by the Town Council.

The Mayor shall countersign checks of the Treasurer, and shall perform such other duties as may be prescribed by resolution or ordinance of the Town Council. If the Mayor be incapacitated from acting by reason of absence, or for any other reason whatsoever, then all powers and duties conferred and imposed upon the Mayor by this Act, or any other law, or any resolution or ordinance now or hereafter adopted or enacted by the Town Council, shall be exercised and performed by the Vice-Mayor for the period of such incapacity.

The Mayor shall have the same right as other Councilmembers to vote on all matters that come before the Town Council and may at any time appoint Councilmembers to preside if he or she 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 or her duties as presiding officer.

- 4.1.2 Emergency Powers. The Mayor shall be authorized to act on behalf of the Town, without prior Council approval, in the event of some sudden emergency requiring prompt action in order to protect the public health, safety, and welfare of the Town, its residents and property owners. A 'sudden emergency' for purposes of this section shall include, by way of example and not in limitation, a major fire or conflagration, significant flooding, or a serious storm threatening significant damage, a civil disturbance, or a toxic spill. A 'sudden emergency' shall also include any emergency situation as declared by any County, State, or Federal agency having jurisdiction over the Town where the scope of the emergency so declared includes the Town. If reasonably possible, the Mayor shall notify such Councilmembers of the action so taken within 48 hours.

Any action taken by the Mayor under the powers vested in him under this subsection shall be as good as the act of the entire Council; provided that the Council may at a regular or special meeting held within fifteen (15) days of the Mayor's action, cancel the further implementation of any such action not yet completed and notify any persons or legal entities affected.

- 4.2 Vice-Mayor. The Vice-Mayor shall act as Mayor during the absence or disability of the Mayor, and shall perform such other duties as may be assigned to him or her by the Mayor or by ordinance or resolution adopted by the Town Council.
- 4.3 Secretary. The duties of the Secretary shall be to keep a true and faithful record of all the proceedings of the Town Council at all meetings and to do and perform such other matters and things as may be prescribed by this Act or law, or which the Town Council may from time to time prescribe by resolution or ordinance.
- 4.4 Treasurer.
  - 4.4.1 Election, Removal, Oath, Bond.

- (a) At its organizational meeting following the Annual Election, the Town Council shall elect a Treasurer from among themselves. The Treasurer shall hold office for a term of one year and until his/her successor has been duly elected and qualified; provided however, that the Treasurer may be removed from office at any time by a majority vote of the entire Town Council.
- (b) Before entering upon the duties of the office, the Treasurer shall be duly sworn or affirmed to faithfully and honestly perform the duties of his/her office which oath may be administered by any Notary Public or by the Mayor or Vice Mayor of the Town Council.
- (c) Before entering upon the duties of his/her office, the Treasurer shall give bond in such penal sum as determined by the Town Council, with sufficient surety as determined by the Town Council, conditioned for the faithful discharge of the duties of his/her office and for the payment to his/her successor in office of all sums of money and all property belonging to the Town which may remain in his/her hands upon the settlement of his accounts, to which bond shall be annexed a warrant of attorney for the confession of judgment of said penalty.

#### 4.4.2 Duties.

- (a) General. The Treasurer shall have custody and supervision of all monies and financial records belonging to the Town. The Treasurer shall pay all bills owed by the Town as ordered or approved by the Town Council out of Town monies. All checks shall be co-signed by the Mayor. The Treasurer shall settle his/her accounts with the Town Council annually on the first Monday following the annual Town election each year, and oftener at such other times as the Town Council may require.
- (b) Tax Collection. The Town Treasurer shall act as Town Tax Collector, provided that if the Town Treasurer declines, in writing, to accept that responsibility, the Town Council shall appoint some other qualified person to serve as Town Tax Collector and in such event, all provisions hereof regarding collection of Town Taxes by the Treasurer shall be construed and applied to such other appointee. The compensation to be paid to the Town Treasurer for collection of the Town taxes shall be set by the Town Council.

The Treasurer shall be responsible for the collection of all Town taxes, fees, assessments and charges owed to the Town. During the month of May in each year, the Treasurer shall obtain from the records of the County Board of Assessment at Georgetown, Delaware, a list of the taxable real estate within the limits of the Town, together with names of the owners thereof, and of the assessment of such property by the Sussex County Board of Assessment. This list shall be the official assessment list of said Town. The Treasurer shall be authorized to add to such list any taxable real estate within the Town which may have been omitted from the County list and to assess such added property to the proper owners thereof. The Treasurer shall add to the assessment list any charges or amounts owed to the Town for municipal services including by way of example and not in limitation, trash collection charges and beach clean-up assessments.

After preparing his assessment list as aforesaid, the Treasurer shall submit the same to the Town Council for their approval. After their approval he shall post said assessment list in one (1) or more public places in the Town during the last half of the month of May for the inspection of the taxables of the said Town.

On said list there shall be a statement to the effect that the Town Council will sit at their regular meeting in June of each year to hear appeals from said assessment. At such meeting, the Town Council shall have power to add or to decrease only the assessments made by the Treasurer and any additional charges owed to the Town. No Councilmember shall sit on his own appeal. When the appeal day is past, the Town Council shall without delay cause the assessment list to be transcribed, and the transcript to be delivered to the Treasurer who shall

thereupon collect from each taxable his proportion of taxes, and pay the whole amount to the Town Council at least once during each month after said transcript has been delivered to him for the collection of taxes as aforesaid. All taxes shall be due the Town as soon as the assessment list approved by the Town Council has been delivered to the Treasurer. After September 30th in each year, a penalty of two (2%) percent per month shall be added to all uncollected taxes. The Treasurer shall have all of the same powers for the collection of said taxes, penalties and costs of collection as are conferred by law upon the Collector of Sussex County taxes.

In the collection of any Town taxes, penalties, and/or interest thereon, the Town shall be entitled to collect an additional sum from the taxable for the Town's actual costs and attorneys fees incurred to make such collection. Any such taxes, together with their associated penalties and costs of collection shall be and constitute a lien upon the property for a period of ten (10) years from the date such taxes become due.

#### 4.5 Manner of Acting.

4.5.1 Rules of Procedure, Record of Proceedings. The Town Council may determine its own rules of procedure and order of business. It shall keep a record of its proceedings.

4.5.2 Ordinances. The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the Town, or relating to the government of the Town, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the Town Council shall be by ordinance which:

- (a) Adopt or amend any code or comprehensive set of rules or regulations;
- (b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (c) Grant, renew or extend a franchise;
- (d) Amend or repeal any ordinances previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution. Every ordinance shall be introduced in writing. Vote on any ordinance may be by voice vote or written vote and the vote of each Council member on any ordinance shall be entered on the record. No ordinance shall be passed unless it shall have the affirmative vote of a majority of the entire Town Council.

4.5.3 Public Notice Regarding Certain Actions. In addition to such other notice as may be required by this charter or by general statute, the Town Council shall give at least 30 days public notice to the taxpayers, property owners, and voters of the Town prior to taking any of the following actions:

- (a) approving any proposed amendment to the Town Charter;
- (b) approving any change in the Town's real property tax rate;
- (c) instituting any new tax on the citizens of the Town and/or their property;
- (d) borrowing any money under §6.5 hereof;
- (e) conducting the Annual Town meeting and Town Election;
- (f) adopting, amending or repealing any ordinance.

Notice under this section shall be provided by public posting in at least one public place in the Town and by mailing copies of such notices by regular mail, (postage prepaid) to the taxpayers and property owners at their addresses as shown on the Town's tax records; and to non-property-owing residents at their last known address as provided to the Town. Nothing herein shall prohibit the Town Council from taking any action without such advance public notice where such action is required by emergency or other exigency; but

in such event, notice as herein provided shall be given as soon as conveniently possible and in no event later than 15 days following the taking of such action.

The Town Council may combine notice of any number of such proposed and/or previously taken actions in one notice which may be included in the Town's Annual Newsletter if one exists.

- 4.5.4 Quorum. Three members of the Town Council shall be physically present in order to constitute a quorum to conduct business, but if a lesser number be present at any regular or properly called special meeting, they may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by the majority of the entire Council.
- 4.5.5 Vote Necessary to Carry Action. All powers of the Town Council, whether express or implied, shall be exercised in the manner provided herein, or if not prescribed herein, then by ordinance or resolution. A majority vote of the entire Town Council shall be necessary to carry any action.
- 4.6 Disqualification. If any Councilmember shall, during his or her term of office, cease to meet the qualifications to be a Councilmember, or be found guilty of any felony or crime of moral turpitude or fail to attend three consecutive regular meetings of the Town Council without being excused by a majority of the remaining members of the Town Council, he or she shall forthwith be disqualified to act as a Town Councilmember, and his or her office shall be vacant and shall be filled by some other qualified person for the remainder of the term by the remaining Councilmembers.
- 4.7 Filling Vacancies. In case of a vacancy on the Council by reason of death, resignation, or disqualification from office, the remaining Council members shall elect some other qualified person to serve for the remainder of that vacant seat's term.
- 4.8 Regular Meetings of Town Council. Following the annual organization meeting, the Town Council shall thereafter hold meetings at such times as may be prescribed by ordinance, but not less frequently than once each month.
- 4.9 Special Meetings. Special meetings of the Town Council may be called by the Mayor, and shall be called by the Mayor upon written request of three Councilmembers. All meetings, regular and special, shall be open to the public, except where executive sessions are permitted under the Delaware Freedom of Information Act (29 Del.C. 1001 et seq.) as it may be amended from time to time hereafter.
- 4.10 Compensation of Mayor and Council. The Town Council is authorized to compensate the Mayor and each member of the Town Council in such amount(s) as established by ordinance for each council meeting attended, provided, however, that such compensation shall not exceed \$75.00 per person per Council meeting attended.
  - 4.10.1 Changes in Compensation. Any increase or decrease shall not take effect as to any seat on Council (or the Mayor) until the first Council meeting following a Town election to fill that seat's vacancy.
  - 4.10.2 Reimbursement of Expenses. The Town Council is authorized to reimburse the Mayor and members of Council for their documented actual and necessary expenses incurred in the performance of their duties of office. (72 Del. Laws, c. 404)

## **§5. Officers of the Town.**

At their first organizational meeting of the Town Council following the annual election, the Town Council may appoint a Town Building Inspector and such other officers or officials as the Town Council deems appropriate. Each of the said officers shall serve at the pleasure of the Town Council.

- 5.1 Compensation of Members of the Board of Adjustment. The Town Council is authorized to compensate members of the Board of Adjustment in such amount(s) as established by ordinance for each meeting attended, provided, however, that such compensation shall not exceed \$50.00 per person per Board of Adjustment meeting attended.
- 5.2 Reimbursement of Expenses. The Town Council is authorized to reimburse all Town Officers and Officials, including the members of the Board of Adjustment, for their documented actual

and necessary expenses incurred in the performance of their duties of office. (72 Del. Laws, c. 404)

**§6. Powers of the Town.**

- 6.1 General. The Town shall have and enjoy all the powers possible for a municipal corporation to have under the Constitution and laws of the State of Delaware, as fully and completely as though they were specifically enumerated in this Charter.
- 6.2 Enumeration of Powers. Not by way of limitation upon the scope of the powers vested in the Town Council to exercise all powers delegated by this Charter to the Town (except as may expressly appear herein to the contrary), but rather by way of enumeration and for purposes of clarity, the Town Council is vested by this Charter with the following powers, that is to say, the Town Council:
- 6.2.1 May have and use a corporate seal which may be altered, changed, or renewed at pleasure.
- 6.2.2 May hold and acquire by gift, negotiation and purchase, devise or lease, property both real (improved or unimproved) and personal, or mixed, within the boundaries of the Town, in fee or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to, providing sites for constructing, improving, extending, altering, or demolishing:
- (a) public buildings;
  - (b) parks;
  - (c) streets, squares, lanes and alleys;
  - (d) recreational facilities, including but not limited to, public bathing beaches, gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddleball courts, and all appurtenances thereto;
  - (e) for revitalization, or rehabilitation of blighted areas, or removal of dangerous buildings;
  - (f) for the protection of the health of the citizens of the town;
  - (g) for the proper furnishing of adequate municipal services to the citizens of the Town.
- 6.2.3 May sell, grant, alienate, lease, mortgage, manage, hold and control such property as the interests of the Town may require except as prohibited by the Constitution of the State of Delaware or as restricted by this Charter.
- 6.2.4 May pay for the acquisition, construction, improvement, repair, extension, alteration, or demolition of any municipal or public property, real, personal, or mixed, from the general fund of the Town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which lands and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the Town by any governmental entity of the United States or the State of Delaware where the proceeds of the grant or loan are for the purposes for which lands and premises are authorized by this Charter to be acquired.
- 6.2.5 May purchase, take and hold real and personal property when sold for any delinquent tax, assessment, license fee, or charge growing out of abatement of nuisances and the like, or other charge due the Town, and to sell the same.
- 6.2.6 May, subject to applicable laws and regulations of the State of Delaware and/or United States Government, ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair and replace any new or present street, highway, lane, alley, water course, park, crosswalk, wharf, dock, drain, gutter, aqueduct, or pipeline or portion thereof, in the Town and the beach or beach strand in or contiguous to the Town; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; to enter into contracts or agreements for the doing thereof, including contracts or

- agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare within the Town.
- 6.2.7 May, subject to applicable laws and regulations of the State of Delaware and/or United States Government, provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, or fills for the preservation of any strand or high land within the limits of the Town and contiguous thereto to the end that the same may be preserved and properly protected that the general public might enjoy the use thereof.
- 6.2.8 May, subject to applicable laws and regulations of the State of Delaware and/or the United States government, control within the Town the drainage of all water and to that end may alter or change the course and direction of any natural water course, runs or rivulet within the Town, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town.
- 6.2.9 May, by ordinance and subject to applicable laws and regulations of the State of Delaware, regulate, control or prevent the use or storage of gasoline, naphtha, gun powder, fireworks, tar, pitch, resin, and all other combustible or dangerous materials and the use of candles, lamps, and other lights in stores, shops, and other places; to regulate, suppress, remove or secure any fireplace, stove chimney, oven broiler, or other apparatus which may pose a danger of causing fires;
- 6.2.10 May establish fire limits and do all things necessary for the prevention or extinguishment of fires; and at the discretion of the Town Council, to contribute, donate or give an amount or amounts to any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town, provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable;
- 6.2.11 May prevent vice, drunkenness and immorality;
- 6.2.12 May prohibit gaming and fraudulent devices;
- 6.2.13 May prevent and quell riots, disturbances, and disorderly assemblages;
- 6.2.14 May adopt and enforce such ordinances regulating traffic and/or parking, on all streets, alleys, avenues, and public ways within the Town as are not inconsistent with the motor vehicle laws of the State of Delaware.
- 6.2.15 May, by ordinance and subject to applicable laws and regulations of the State of Delaware, regulate or prohibit the use of public streets, alleys, beaches, parks right-of-ways, public places and Town-owned lands for commercial uses or activities not otherwise protected from such regulation or prohibition by the Constitutions of either the United States or the State of Delaware, or by any controlling federal statute.
- 6.2.16 May, by ordinance, regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, and any other device for discharging missiles which may cause bodily injury or injuries or harm to persons or property; and may by ordinance regulate or prevent the use of bonfires, fireworks, bombs and detonating works of all kinds;
- 6.2.17 May provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;
- 6.2.18 May prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;
- 6.2.19 May direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome, and to assess the cost thereof against the owner thereof.
- 6.2.20 May by ordinance define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and to cause the cost of such abatement or removal to be paid by the legal entity causing or permitting same to exist.

- 6.2.21 May adopt ordinances providing for the condemnation, upon inspection, of any building or structure in the Town which is determined, on the basis of standards set forth in such ordinance(s), to be a fire hazard or otherwise dangerous or unsafe, and cause the same to be torn down or removed.
- 6.2.22 May, pursuant to any duly adopted ordinance restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large and authorize the destruction of the same; and regulate the keeping of dogs within the Town, and provide for registration thereof, with appropriate fees.
- 6.2.23 May by ordinance provide for the punishment of a violation of any ordinance of the Town by fine or not exceeding \$100.00 for each offense.
- 6.2.24 May by ordinance regulate and control the manner of building or removal of dwellings or other structures and to provide for granting permits for same.
- 6.2.25 May by ordinance prohibit and prevent the carrying on of construction by private persons or companies at such times and seasons of the year and at such hours of the day as the Town Council may determine necessary and appropriate for the public health and welfare.
- 6.2.26 May by ordinance provide for or regulate the numbering of houses and lots on the streets and the naming of the streets and avenues.
- 6.2.27 May, for the prevention of fire and the preservation of the beauty of the Town, establish a building line for buildings to be erected; to zone or district the town and make particular provision for particular zones or districts with regard to building or building materials; and may prohibit any building or construction except those for which a building permit has been issued as prescribed by the Town Council; and generally to exercise all powers and authorities vested by virtue of 22 Del.C. Chapter 3, as it may hereafter from time to time be amended, or any future corresponding provision of law; all such powers under this subsection to be exercised by ordinance.
- 6.2.28 May license, tax and collect fees annually for any and all municipal purposes of such various amounts as the Town Council from time to time shall fix, from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of the Town;
- 6.2.29 May by ordinance impose, upon new development or construction or upon first-time occupancy of new construction, such 'impact fees' as are reasonably calculated to recover the cost of installing, enlarging, improving, or expanding public or municipal improvements which have a rational nexus to such new construction.
- 6.2.30 May grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such consideration as the Town Council shall deem in the best interests of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, strands, crosswalks, wharfs, docks, beaches and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof, and for the purpose of erecting wharfs and piers; provided, however, that whenever any state or federal law grants exclusive jurisdiction over any such activity to a state or federal agency, the Town shall have no authority inconsistent therewith.
- 6.2.31 May regulate and control the exercise of any license or franchise mentioned in Section 6.2.30 of this Charter, or intended so to be.
- 6.2.32 May appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency.
- 6.2.33 May inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses,

administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena.

6.2.34 May make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules, and By-Laws not contrary to the laws of this State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the order, protection and good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants.

6.3 Liberal Construction; Manner of Exercise. The powers of the Town under this Charter shall be liberally construed in favor of the Town, and 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 hereby, or appropriate to the exercise thereof, the Town shall have and may exercise any and all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter to specifically enumerate.

6.4 Intergovernmental Cooperation. The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State of Delaware or any civil division or agency thereof, or the United States or any agency thereof, except as prohibited or restricted by the Constitution or laws of the State of Delaware or by this Charter.

6.5 Borrowing Powers. The Town Council shall have full power and authority to borrow, upon the full faith and credit of the Town, a sum or sums of money not exceeding one and one-half percent (1½%) of the total taxable assessed value of all real property within the Town in any one fiscal year, and in no event to exceed an aggregate outstanding total indebtedness exceeding three (3%) percent of the total taxable assessed value of all real property in the Town, when, in the opinion of a majority of the Town Council elected the needs of the Town require it. The Town Council may secure said sum or sums of money by promissory note or notes or certificates of indebtedness of the Town, duly authorized by resolution of the Town Council and signed by the Mayor, or the Vice-Mayor of the Town Council, and by the Secretary, and either with or without the corporate seal of the Town affixed as is requested by legal entity advancing the money on said notes or certificates. Such notes or certificates of indebtedness and the interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions. No officer nor member of the Town Council shall be personally liable for the payment of such note or notes, because of his signature as an officer of the Town Council, his membership on the Town Council, or his approval of the authorizing resolution; provided, further, however, that any sum of money borrowed by the Town Council on the full faith and credit of the Town as aforesaid in any fiscal year, shall be repaid out of the general funds of the Town at the minimum rate of Twenty-five (25%) percent of the amount so borrowed, in each of the four consecutive years immediately following the fiscal year in which said money was borrowed, together with the interest thereon.

## **§7. Taxing Powers.**

7.1 Real Property Tax. The Town Council of the Town is hereby authorized and empowered to levy and collect from the taxables of said Town, according to the terms and provisions of this Act, such sum of money as may be deemed by the Town Council as necessary and proper for the general municipal needs of the Town, which sum, excluding all interest, penalties, and costs of collection, shall in no year exceed a sum of money equal to two (2%) percent of the total assessed value of all taxable real estate in the Town. The amount to be raised annually by taxation and the rate of taxation shall be fixed annually by the Town Council at its regular June meeting.

7.2 Real Estate Transfer Tax. The Town Council may, by ordinance, establish and collect a realty transfer tax not to exceed the rate of one percent (1%) of the value of the property conveyed in conformance with the definitions and exceptions governing the Delaware State Realty Transfer Tax, Title 30, Del.C. of 1974, and all amendments heretofore or hereafter adopted, or any future corresponding law.

**§8. Use of Town Monies; Fiscal Year; Annual Statement.**

- 8.1 The Town Council shall have full power and authority to use the money in the Treasury of said Town, or any portion thereof, from time to time for the improvement, benefit, protection, ornament and best interest of the said Town as the Town Council may deem proper, and to use Town money to accomplish and carry into effect all acts and things which it has power to do by virtue of the laws of Delaware, this Act and all lawful ordinances and resolutions of the Town Council.
- 8.2 Fiscal Year. The fiscal year of the said Town shall begin the first day of July in each year and shall end with the next succeeding thirtieth (30th) day of June.
- 8.3 Annual Statement. The Town Council shall cause a full and correct annual statement of the receipts and disbursements of all Town moneys for the fiscal year just preceding, to be posted in one (1) or more public places in the Town, during the latter half of September in each year, and during the same period have copies of such statement mailed to the taxpayers, property owners, and residents of the Town in the same manner as provided in §4.5.3.

**§9. Auditor**

It shall be the duty of the Town Council to appoint annually in the month of June a competent and suitable person, who shall serve as auditor of the accounts of the Town Council, whose duty it shall be to examine all the accounts of the Treasurer for the preceding fiscal year, and to audit the same. The said auditor shall on or before the regular September Town Council meeting next ensuing his or her appointment, make a report of said accounts so examined and audited and post the same on the first Monday of October. This shall be posted in one (1) or more public places in the Town, said places to be designated by the Town Council. For the purposes of said audit the Auditor shall have access to all records belonging to the Town Council, and to all records of the officers of said Town. The said Auditor shall also convey to any taxable of said Town the result of said audit, upon request.

**§10. Subdivision and Land Development; Power to Regulate.**

In order to provide for the orderly growth and development of the Town, to promote the health, safety, prosperity, and general welfare of the present and future inhabitants of the town, to insure the conservation of property values and natural resources, including the protection of the Town's open lands, water resources, and recreational potential, and to afford adequate provision for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the Town may regulate the subdivision of all land in the Town. Such regulation may, through ordinance, include:

- 10.1 Varying procedures for insuring the orderly processing of combining, partitioning, or land subdivision plans, within a reasonable period of time, relative to the number of lots or parcels and the extent of improvements required;
- 10.2 Procedures for insuring that the arrangement of the lots or parcels of land or improvements thereon shall conform to the existing zoning at the time of recordation, and that streets, or rights-of-way, bordering or within subdivided land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate prospective traffic, that adequate easements or rights-of-way shall be provided for drainage and utilities, that reservations of areas designed for their use as public grounds shall be of suitable size and location for their designated uses, that sufficient and suitable monuments and signage shall be required, that land which might constitute a menace to safety, health or general welfare shall be made safe for the purpose for which it is subdivided, and that adequate provision for water supply is made;
- 10.3 Procedures for encouraging and promoting flexibility and ingenuity in the layout and design of subdivisions and land development, and for encouraging practices which are in accordance with contemporary and evolving principles of site planning and development;
- 10.4 Requiring, through dedication of land, money in lieu of land, 'impact fees' or otherwise, those subject to such regulation to provide, at their own expense, such municipal or public improvements (including enlargement, expansion, improvement, or enhancement of existing

- municipal or public improvements) which have a rational nexus to the proposed land subdivision, combining, or partitioning, including by way of example and not in limitation, the paving of streets, installation of sidewalks, curbs, storm sewers, water lines, sanitary sewer lines, electric distribution lines, street signs, access roads, playgrounds, parks, and open areas. In imposing such requirements, the Town may consider and take into account future as well as immediate needs, and potential as well as present population factors affecting the neighborhood in question;
- 10.5 Procedures for insuring that any improvements to be constructed on such lands are in compliance with all appropriate Town ordinances and that the placement and location of such improvements will not have a significant negative impact on adjoining properties;
- 10.6 Procedures for securing financial guarantees from the developers of such lands to insure satisfactory completion of all such required improvements, which may include extending the term of such guarantee for a reasonable period of time (not exceeding three years) beyond the actual completion of such improvements by the Town.
- 10.7 Recording Unapproved Plans. In the event an ordinance of the Town so provides, no plat, plot, or plan of land shall be received for filing or recording by the Recorder of Deeds in and for Sussex County unless and until such plat, plot, or plan shall have been approved by the Town body so authorized to grant such approvals and the fact of such approvals shall have been endorsed in writing on such plan. Any such plot recorded in violation of this provision shall be voidable by action of the Town Council of the Town of Slaughter Beach.

#### **§11 Action or Suits.**

No action, suit, or proceeding shall be brought or maintained against the Town of Slaughter Beach, its officers (including the members of any board, commission, or agency), employees, or agents, whether now, hereafter, or previously serving as such, and no judgment, damages, penalties, costs, or other money entitlement shall be awarded or assessed against the Town, its officers, (including the members of any board, commission, or agency) employees or agents, whether now, hereafter or previously serving as such, in any civil suit or proceeding at law or in equity, or before any administrative tribunal, arising out of, connected with, or on account of any physical injury or injuries, death, or any other type of personal injury (including libel or slander), or injury to property (whether real or personal) unless the person by or on behalf of whom such claim or demand is asserted, within one year from the happening of the incident giving rise to such injury shall notify the Town of Slaughter Beach in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Mayor of the Town of Slaughter Beach by certified mail and return receipt requested and postage prepaid.

#### **§12. Indemnification.**

- 12.1 Subject to the limitations and conditions hereinafter set forth, the Town shall indemnify, from the general funds of the Town's Treasury, any person who is a party to, or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Town of Slaughter Beach itself) by reason of the fact that he or she is or was a Councilmember, Mayor, or other duly elected or appointed Town Official of the Town of Slaughter Beach, or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees) judgments, fines, and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Town of Slaughter Beach, and with respect to any criminal action or proceeding had reasonable cause to believe that his conduct was unlawful;

- PROVIDED HOWEVER, that, in the event of a monetary settlement, the Town Council shall first approve the amount and terms of the settlement before the right to indemnification shall vest.
- 12.2 Indemnification as provided in this ordinance shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the Councilmember, Mayor, and/or Town Officer is proper in the circumstances because he or she met the applicable standards of conduct set forth above. Such determination shall be made:
- 12.2.1 By a majority vote of a quorum of the Town Council consisting of council members who were not parties to such action, suit or proceeding, or
- 12.2.2 If such a quorum is not obtainable, by independent legal counsel in a written opinion.
- 12.3 The right to indemnification hereunder shall be secondary to the coverages provided by any applicable policy of insurance and such policy(s) shall be construed and enforced as if no right of indemnification existed under this Charter. Nothing in this section shall eliminate or reduce the scope or amount of coverage that would otherwise be in effect under any applicable policy of insurance but for this section, and the right to indemnification shall be limited only to those amounts not covered by applicable policies of insurance.
- 12.4 Anything herein to the contrary notwithstanding, the right to indemnification shall be limited, per incident, to a sum not exceeding the Town's total tax revenues for the two fiscal years immediately preceding the incident giving rise to the claim.

**§13. Survival of Powers and Validating Section.**

- 13.1 All powers conferred upon or vested in the Town Council of Slaughter Beach by any act or law of the State of Delaware not in conflict with the provisions of this Act are hereby expressly conferred upon and vested in the Town of Slaughter Beach precisely as if each of said powers was expressly set forth in the Act.
- 13.2 All ordinances adopted by the Town Council of Slaughter Beach and in force at the time of approval, acceptance and going into effect of this Act are continued in force until the same or any of them shall be repealed, modified, or altered by the Town Council of Slaughter Beach under the provision of this Act.
- 13.3 All of the acts and doings of the Town Council of Slaughter Beach or of any official, or of the Mayor, or the Town which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town of Slaughter Beach or under any provision of any prior Act of the Town of Slaughter Beach, prior to the approval, acceptance and going into effect of this Act, are hereby ratified and confirmed, unless otherwise provided herein.
- 13.4 All taxes, assessments, license fees, penalties, fines, forfeitures, and other charges due to the Town of Slaughter Beach and all debts due from the Town of Slaughter Beach shall remain unimpaired until paid to or by the Town of Slaughter Beach.
- 13.5 All powers granted by this Act in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the Town of Slaughter Beach.
- 13.6 All bonds given by or on account of any official of Slaughter Beach shall not be impaired or affected by the provisions of this Act.
- 13.7 Each member of the Town Council who holds office at the time of approval of this Act shall continue to serve until the expiration of his or her term of office.
- 13.8 All acts or parts inconsistent with or in conflict with the provisions of the Act shall be and the same are hereby repealed to the extent of any such inconsistency.

**§14 Separability.**

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

**§15 Effective Date.**

This Act shall take effect July 31, 1993.

Approved July 14, 1993.

(69 Del. Laws, c. 150; 72 Del. Laws, c. 404)