

Administrative changes incorporated herein:

- Gender bias removed; reference is to the office whenever possible
- Mayor identified as Mayor or presiding officer of the Town Council (delete reference to President Pro Tempore)
- Commissioners of Dewey Beach when referring to the body use (except in first instance) Town Council; when intended to refer to individual commissioners, use “Commissioner(s)”
- Resolve ambiguity re: Secretary; a commissioner who serves all functions of mayor at times when the mayor is absent or incapacitated
- Clarify definition of “majority vote” in all cases as majority of commissioners present, except where wish to require a minimum of 3 affirmative votes (e.g., hiring/firing of town manager)
- Quarterly or monthly town council meetings rephrased as “regular” town council meetings
- Clarify that a “lease with a term of five (5) years” is valid regardless of the amount of time remaining on said lease

Substantive changes incorporated herein:

14b Delete commissioner direction of departments; add mayor as liaison between Town Council and Town manager and as spokesperson for the Town Council; add Secretary as acting mayor when mayor is unavailable or incapacitated

15a Add requirement for 3 affirmative votes to hire town manager; add town manager as liaison between Town Council and public

15b Add minimal qualifications (subject to HR review); expand prohibition on mayor/commissioner serving as town manager

15c Add fixed term; removal for cause; removal at end of contract term; hiring/removal requiring minimum of 3 affirmative votes; flag removal process for HR legal review

15d Prohibit mayor/commissioner serving as temporary town manager but allow employee to do so (e.g. deputy town manager)

16a redefine chain of command: town manager has final say but will consider recommendations from department heads; establish department and division heads as being responsible for effective operations, faithful execution of laws and adherence to budget; provide process for firing for cause of employees and appeal process: as defined in Employee Handbook; remove Town Council as Board of Appeal

16b Add Town Manger to see policy & laws faithfully executed

16c Define town manager’s recommendations to be on efficient & effective operations; add adherence to budget; department heads to attend regular town council meetings and brief council and public on departmental activities and concerns

16j (parallel to 15d) Prohibit mayor/commissioner serving as acting town manager

16k New. Requires position descriptions and annual reviews of all employees and town manager – appropriately signed and filed

19 Add Beach Patrol to Section title

19a Clarify hiring, contract term & firing of Police Chief (needs HR legal review); clarify chain of command and responsibilities; decision making in an emergency

19b Ditto regarding Captain of Beach Patrol: parallel 19a as appropriate

23a1 Repeat “Goals of Town Governance” as per 4a

23a10 flag aggregate \$1.5 million borrowing cap for Council consideration

23a13 a et seq amend as appropriate “ordinance” to read “affirmative vote, or adopted ordinance or resolution” for completeness

23a16 Flag revision of exclusion of “property being assessed a public accommodation lodging excise tax under 30 Del. Laws, c. 61” for review of 2008 election referendum and further consideration.

Notes to the CCR Committee are included in attached comments; notes to the Town Council are imbedded as footnotes.

#### Section 14 Duties and Powers of the Mayor.

(a)

The Mayor of the Town of Dewey Beach shall be sworn or affirmed to perform the duties of the Office of the Mayor with fidelity.

(b)

The Mayor shall serve as the **presiding officer of the Town Council**. As such, it shall be the Mayor’s duty to preside at all meetings of the Town Council and the Mayor shall have a vote therein. The Mayor shall execute on behalf of the Town when authorized by a majority vote in a properly-noticed Town Council Meeting of Commissioners present all agreements, contracts, bonds, deeds, leases and other documents necessary to be executed.<sup>1</sup> The Mayor shall be a member, ex-officio, of all committees. It shall be the duty of the Mayor to see that the laws and ordinances of the Town are faithfully executed, **to ensure that all affirmative actions taken by the**

**Comment [DSK1]:** As presiding officer, the mayor calls for meetings and sets agenda. This detail will be clarified/included in Section 11 Meetings.

<sup>1</sup> Note to Town Council: There was a lot of discussion regarding the notion of commissioner-liaisons to town departments. The final draft language developed, “The Mayor may appoint an individual Commissioner to act as a liaison to each department or division of the Town government to provide the Town Council a better understanding of departmental operations and needs and not to interfere in any manner with normal departmental operations.” was ultimately rejected as being more disruptive to town operations than being helpful.

Town Council adhere to the annual budget, and to perform all duties imposed upon the Office of the Mayor by this Charter. The Mayor shall also have the power to administer oaths and affirmations. The Mayor shall also serve as the liaison between the Town Council and the Town Manager and as the official spokesperson for the Town Council. The Mayor shall also have the power and authority to solemnize marriages within the boundaries of the Town of Dewey Beach. In cases where the Mayor is absent or incapacitated, the Secretary of the Town Council shall serve in the Mayor’s lieu. (72 Del. Laws, c. 425, 7/13/2000)

**Comment [DSK2]:** Added in final editing, I can’t remember if this appears elsewhere. Okay here if not elsewhere?

(c) As a Commissioner of Dewey Beach, the Mayor shall have the same right as all other individual Commissioners to vote on all matters, and debate any question from the floor.

**Comment [DSK3]:** Need to confirm that an acting mayor has to be/doesn’t have to be a resident. The result of this finding should go in the section on organization.

(d) Upon the expiration of the Mayor’s term of office or upon resignation or removal from office, the Mayor 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 Dewey Beach and pay over to the Town all monies belonging to the Town.

**Section 15 Town Manager.**

(a) The Mayor of the Town of Dewey Beach, with the concurrence of an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting, may appoint a Town Manager who shall be responsible for all administrative affairs of the Town. The Town Manager shall also serve as the liaison between the public and the Town Council.

(b) The Town Council shall impose such qualifications for Town Manager as may be deemed necessary. As a minimum, any candidate for the Town Manager position shall have a demonstrated knowledge of the operation and administration of municipal governments as evidenced by the candidate’s academic background and work experience. Candidate experience working with Federal and Delaware Emergency Management Agencies should be considered as an advantage.<sup>2</sup> No person holding the office of Mayor or Commissioner shall be eligible to apply for nor be appointed to the position of Town Manager.

**Comment [DSK4]:** This language has been changed slightly to prohibit candidacy as well as serving as town manager. Okay?

(c)<sup>3</sup> The Town Manager shall be appointed for a fixed term and shall report to the Mayor acting on behalf of the Town Council. The Town Manager’s performance shall be evaluated by the Town Council at least once a year and each annual evaluation report shall be duly signed by each member of the Town Council and archived with the Town’s personnel files.

**Comment [DSK5]:** Brought up elsewhere and inserted here. Okay?

The Town Manager may be removed for just cause by an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting. At least thirty (30) days before such removal shall become effective, the Town Council shall, by an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting, adopt a preliminary resolution stating the reasons for the Town Manager’s removal. The Town Manager may reply in writing and may request a public hearing which shall be properly noticed and held

<sup>2</sup> Note to Town Council: This language is a placeholder. If the Town Council agrees regarding some minimum set of qualifications, final language should be crafted by the Town’s HR contractor.

<sup>3</sup> Note to Council: The language in 15(c) regarding termination should be fully reviewed by the Town’s HR contractor.

not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Town Council, by an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting, may adopt a final resolution of removal. **By the preliminary resolution, the Town Council may immediately suspend the Town Manager from duty** but shall in any case cause to be paid to the Town Manager forthwith any unpaid balance of salary for the next three (3) calendar months following the adoption of the preliminary resolution.<sup>4</sup>

At the end of the Town Manager’s contractual term of employment the Town Council may act so as not to renew or extend the Town Manager’s contract without cause by an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting. **(78 Del. Laws, c. 346, 7/18/2012)**

(d)

In case of the absence or disability of the Town Manager, the Town Council may designate some qualified person who shall not be the Mayor or a Commissioner to perform the duties normally assigned to the Office of the Town Manager on a temporary basis. The compensation which the Town Manager shall receive shall be established by resolution by the Town Council. **(70 Del. Laws, c. 191, 7/10/1995)**

**Section 16 Responsibilities of the Town Manager.**

(a)

The Town Manager shall be responsible to the Town Council for the proper administration of the affairs of the Town placed in the Town Manager’s charge and to that end, the Town Manager shall have the authority to make such appointments, to hire such employees at such compensations as appropriate for each position or level or qualification, to promote and to remove from such employment, subject to such rules and regulations as may be adopted by the Town Council, provided in the case of any employee of a department or division with a department head other than the Town Manger that prior to taking any personnel action the Town Manager shall take into consideration the recommendation of the cognizant department head. All such department or division heads are responsible for the expedient and efficient operation of their respective department or division, to ensure that such department or division adheres to its budget, and to see that all Town policy and laws under the purview of their department or division are faithfully executed.

All employees may be removed at any time for just cause. The Town Manager shall seek input from the Town Council for personnel actions regarding heads of departments but otherwise shall be the ultimate judge of the competence or incompetence of any such person recommended for hiring, promoting or termination.<sup>5</sup> The rights of an employee to appeal any personnel action shall be specified in the Town Employee Manual. **(78 Del. Laws, c. 346, 7/18/2012)**

(b)

<sup>4</sup> Note to Council: (A personal comment from the CCR Committee Chair) It is unclear to me why a 3-month salary payment is authorized upon the preliminary finding, apparently even if the town manager is not suspended during the investigation, or even if not terminated at the end of an investigation that lasts less than 3 months. Thus, this language might need to be amended. See footnote #3 above.

<sup>5</sup> Note to Council: While there was a minority opinion that personnel actions related to “department heads” should be undertaken by the Town Council, the majority of the committee felt this should definitely be within the purview of the Town Manger, who is accountable for all Town operations.

**Comment [DSK6]:** Does this address the desire to provide for suspension of the town manager during the ensuing investigation? Seems the language here is specifically related to removal from office. Parallel language regarding suspension needs to be added to Sections 23 &/or 29 regarding Council investigations.

It is the intention of this Charter that, in the performance of the duties and exercise of the powers of the Office of the Town Manager, the Town Manager shall not be influenced by any matters whatsoever of a political or fractional nature. It is the intention of this Charter that the Town Manager shall be guided solely by the matters of expediency and efficiency in the administration of the affairs of the Town placed in the Town Manager's charge and to see that the policy and ordinances of the Town are faithfully executed. Except for purposes of inquiry, the Commissioners shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.

(c)

It shall be the duty of the Town Manager to supervise the administration of the affairs of the Town under the charge of the Office of the Town Manger and to make such reports to the Town Council as are required by it. The Town Manager shall make such recommendations to the Town Council concerning the affairs of the Town as may seem desirable for the expedient and efficient operations and the achievement of Town policy and goals. The Town Manager shall keep the Town Council advised of the financial condition and future needs of the Town. The Town Manager shall prepare and submit to the Town Council an annual budget estimate. The Town Manager shall be responsible for operating the Town within the constraints of the budget and shall render to the Town Council and the public at the regular Town Council Meetings a true, accurate and detailed account of all the monies collected or received by the Town. At such regular Town Council Meetings the Town Manager shall arrange for all department heads to be present and to provide the Town Council and the public an overview of departmental activities since the last meeting and a description of active departmental concerns and future needs.

(d)

In conjunction with the Mayor, the Town Manager shall sign warrants pursuant to appropriations or resolutions theretofore made for by the Town Council. The Town Manger shall prepare and submit to the Town Council such reports as may be required by the Town Council, and shall perform such other duties as may be prescribed by this Charter or required by ordinance or resolution of the Town Council.

(e)

The Town Manager and such other officers of the Town as may be designated by vote of the Town Council shall be entitled to seats in the meetings of the Town Council but shall not have a vote therein.

(f)

The Town Manager shall have charge and supervision of the sewer system, water system, street lighting, streets, gutters, curbs, sidewalks, boardwalks, jetties, piers, parks, and other administrative affairs of the Town and all work relating thereto. The Town Manager shall have charge of and shall collect all taxes, assessments, rentals, franchise fees, license fees, or other charges due the Town. The Town Manager shall have charge of the administration of all provisions of this Charter and ordinances and resolutions of the Town Council relating to the affairs of the Town when not otherwise provided for by this Charter or by any ordinance or resolution of the Town Council.

(g)

Town Manager shall be responsible for the keeping of a full and strict account of all monies received and all disbursements made by the Town and that such accounts shall, at all times, be open to inspection by the Town Council.

(h)

**Comment [DSK7]:** As requested. Okay? Could go here or in Section 11.

Town Manager shall give to the Town of Dewey Beach a bond, if required by the Town Council, in such sum and in form with security satisfactory to the Town Council for the faithful performance of the duties of the Office of Town Manager and the restoration to the Town of Dewey Beach, in case of death, resignation, or removal from office of all books, papers, vouchers, money other property of whatever kind belonging to the Town.

(i)  
In the event of a vacancy in the Office of the Town Manager for any reason or reasons whatsoever, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges, and powers theretofore reposed in the predecessor or predecessors in said office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.

(j)  
Upon the death, resignation, or removal from the office of the Town Manager, the Mayor, with the approval of a majority vote in a properly-noticed Town Council Meeting of the Commissioners present, shall appoint some suitable person who shall not be the Mayor or a Commissioner to perform the duties of Town Manager; on an interim basis for ninety (90) days with the option of renewal of the appointment for two (2) additional terms of ninety (90) days or until a Town Manager is appointed, whichever period is shorter. **(70 Del. Laws, c. 191, 7/10/1995; 78 Del. Laws, c. 346, 7/18/2012)**

(k)  
The Town Manager shall be responsible for ensuring that a staffing plan for all active employees, officers, and agents is maintained and updated annually or as needed as position descriptions and requirements change. Also, the Town Manager shall ensure that annual performance reviews are conducted for all employees and that such performance reviews are signed off on by the cognizant department or division head and filed in the Town’s permanent personnel files. In the case of department heads, such annual performance reviews shall be conducted and signed off on by the Town Manager. With regard to the Town Manager such annual performance review shall be conducted by the Town Council and the results signed off on by all members of the Town Council and communicated to the Town Manager by the Mayor.

**Comment [DSK8]:** As requested regarding signing and filing of personnel reviews. Okay?

**Section 19 Police Force and Beach Patrol.**

**Comment [DSK9]:** Need to confirm there is a reason not to include BP in title

(a)  
The Town Council has the power to establish a Police Force and make such rules and regulations as may be necessary for the organization, government and control of such a Police Force. The Police Force shall preserve peace and order, and shall compel obedience within the Town limits to the ordinances of the Town and the Laws of the State of Delaware. The Police Force shall have such other duties as the Town Council shall from time to time prescribe. A qualified Chief of Police shall be hired to head the Police Force. The Chief of Police shall serve as a direct report to the Town Manager. Qualifications for said Chief of Police shall be established by the Town Manager with the approval of the Town Council.

The Chief of Police shall serve the Town under a contract with a fixed term and may be removed from the Office of Chief of Police for cause at any time during said employment contract by the

Town Manger provided the Town Council concurs by an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting and all requirements of the Town Employee Manual and Police Bill of Rights are followed. The Town Manager may act so as not to renew or extend the employment contract of the Police Chief for any reason provided such action is approved by the Town Council as indicated above and all requirements of the Police Bill of Rights are followed.<sup>6</sup>

It shall be the duty of the Chief of Police to see that the laws and ordinances of the Town are faithfully executed. The Chief of Police shall be responsible for the proper administration of all of the affairs of the Police Force and for all matters related to the preservation of peace and order and other duties prescribed by the Town Council and to that end, shall have the authority over all Police Force personnel actions, including removal of any Police Force employee for cause, for establishing appropriate rules and regulations for efficient and effective departmental operations, and for adherence to the departmental budget and in so doing the Chief of Police shall be accountable to the Town Manager. **(70 Del. Laws, c. 191, 7/10/1995)**

The Police Chief shall have the authority to issue temporary orders to authorize Town response(s) and the expenditure of Town funds in the face of a declared State- or National emergency to be in effect until such time as an emergency meeting of the Town Council can be convened provided the Town Manager is able to obtain the consent thereto by at least three (3) individual Commissioners by phone or email.<sup>7</sup>

(b)

The Town Council has the power to make such rules and regulations as may be necessary for the organization, government and control of a Beach Patrol. Said Beach Patrol shall enforce regulatory measures ordained by the Commissioners in respect to the cleanliness, uses and enjoyment of the Town Beach front; and, would perform such other duties as the Commissioners may prescribe. In the performance of their duties, members of the Beach Patrol may be vested with all the powers and authorities of a member of the Town Police Force.

A qualified Captain of the Beach Patrol shall be hired to head the Beach Patrol. The Captain of the Beach Patrol shall serve as a direct report to the Town Manager. Qualifications for said Captain of the Beach Patrol shall be established by the Town Manager with the approval of the Town Council. The Captain of the Beach Patrol shall serve the Town under a contract with a fixed term and may be removed from the Office of Captain of the Beach Patrol for cause at any time during said employment contract by the Town Manger provided the Town Council concurs by an affirmative vote of a minimum of three (3) Commissioners in a properly-noticed Town Council Meeting and all requirements of the Town Employee Manual are followed. The Town Manager may act so as not to renew or extend the employment contract of the Captain of the Beach Patrol for any reason provided such action is approved by the Town Council as indicated above.

It shall be the duty of the Captain of the Beach Patrol to see that the laws and ordinances of the Town under the control of the Beach Patrol are faithfully executed. The Captain of the Beach Patrol shall be responsible for the proper administration of all of the affairs of the Beach Patrol

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<sup>6</sup> Note to Council. Language regarding removal is meant as a placeholder of what should be covered herein. HR needs to review and approve any final language.

<sup>7</sup> Note to Council. This language should be checked and aligned, if necessary, with the Town's emergency management document.

and for all matters related to the usage of the Town's beaches and other duties prescribed by the Town Council and to that end, shall have the authority over all Beach Patrol personnel actions, including removal of any Beach Patrol employee for cause, for establishing appropriate rules and regulations for efficient and effective departmental operations, and for adherence to the departmental budget and in so doing the Captain of the Beach Patrol shall be accountable to the Town Manager. **(70 Del. Laws, c. 191, 7/10/1995)**

**Section 23 Enumeration of Powers.**

**(a)**

Not by way of limitation upon the power vested in the Town Council to exercise all powers delegated by this Charter to the municipal corporation of the Town of Dewey Beach 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, which may be exercised by said Town Council in the interest of good government and the safety, health, and welfare of the Town, its inhabitants and affairs, that is to say:

**1.**

To provide for the governance of the Town; the maintenance of its peace and order; the provision for its sanitation and the maintenance of its infrastructure; the protection of its beauty and surrounding natural environment; the provision for the health, safety, convenience, comfort and well-being of its population and visitors; the protection and preservation of property, public and private, and the preservation of the character of the Town; the insurance of financial sustainability; and the provision of resilience in the face of global climate change.

**2.**

To prohibit, or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements, and games.

**3.**

To 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 or necessary to carry out any improvements authorized by this Charter.

**4.**

To provide for or regulate the numbering of houses and lots on the streets, and the naming of streets and avenues.

**5.**

For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the number of buildings or removal of dwelling houses and other buildings; to establish a code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; zone or district the Town and make particular provisions for particular zones or districts with regard to building or building materials; and, generally to exercise all the powers and authorities vested in the legislative body of cities and incorporated towns under by the Constitution and Laws of this State.

**6.**

To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping offices for providing services for the Town.

**7.**

To regulate or prevent the use of guns, airguns, spring guns, pistols, sling shots, beanshooters, and any other devices for discharging missiles which might cause bodily harm or injury to property; and to regulate or prevent the use of fireworks, bombs, and detonating works of all kinds.

8.

To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, tapping fee, charge growing out of abatement of nuisances and the like, laying out and repairing sidewalks, or other charge due the Town and to sell the same.

9.

To provide for the collection of and disbursement of all monies to which the Town may become entitled by law, including licenses and fines, where no provision for the collection and disbursement thereof is otherwise provided in the Charter.

10.

To borrow money in the name of the Town for any proper municipal purpose, and in order to secure the payment of the same, to issue bonds or other kinds or forms of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Town Council shall select, for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all State, County or municipal taxes; provided, that in no event shall the indebtedness of the Town, for any and all purposes, at any one time exceed in the aggregate one million five hundred thousand dollars (\$1,500,000)<sup>8</sup>. **(68 Del. Laws, c. 354, 7/10/1992)**

11.

To 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.

12.

To inquire into and investigate the conduct of any office, officer, agent, or employee of the Town and to make investigations of all municipal affairs, and, for any such purpose or purposes shall have the power to subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and production of books, papers or other evidence.

13.

To make, adopt and establish 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 the Town Council may deem proper and necessary for the effective and faithful execution of the Goals of Town Governance as described above. The fiscal year for the Town of Dewey Beach shall begin April 1, and end March 31. **(76 Del. Laws, c. 273, 6/30/2008)**

a.

Qualified voters of the Town of Dewey Beach, as more specifically defined in Section 10(b) of this Charter, shall have the power to petition to require reconsideration by the Town Council of any **affirmative vote, or adopted Ordinance or Referendum** and to approve or reject it at a referendum election as provided herein: provided, however, that such power of petition and

**Comment [DSK10]:** Language inserted herein and following as requested to cover all bases. Okay?

<sup>8</sup> Note to Council: The committee did not feel qualified to comment on any increase or decrease to this amount, but wanted to flag it for your consideration.

referendum shall not extend to the budget or capital program or any emergency ordinance or any ordinance relating to the appropriation of money.

b.

A Referendum Petition, signed by persons eligible to vote in the annual municipal election as prescribed in this Chapter equal in number to at least thirty-three and one third percent (33 1/3%) of the total number of voters who voted in the annual municipal election immediately preceding the execution of the Referendum Petition with the local address of the person so signing, or three hundred (300) such persons as aforesaid, whichever is greater, and authenticated in accordance with subsection c, below, shall be presented to the Town Manager who shall present to the Town Council at the next regular meeting of the Town Council following the date of adoption of the ordinance sought to be reconsidered, or the Petition shall fail and it shall not be the subject of a referendum. If there are less than twenty-eight (28) days from the date of the adoption of the affirmative vote, Ordinance or Referendum sought to be reconsidered until the next regular meeting of the Town Council, the Petition for Referendum shall be presented at the first regular meeting following the expiration of the said twenty-eight (28) day period or the affirmative vote, Ordinance or Referendum sought to be reconsidered shall not be the subject of a referendum. Each copy of such petition shall contain and have attached thereto throughout its circulation the full text of the affirmative vote, Ordinance or Referendum sought to be reconsidered.

c.

Each original Referendum Petition shall have attached to it, when filed, a sworn, validly notarized affidavit executed by the circulator of the petition stating that said circulator personally circulated the petition, the number of signatures thereon, that all signatures were affixed in said circulator's presence, that said circulator believes them to be the genuine signatures of the persons whose names they purport to be, that each such person who signed it is qualified to sign the petition and that each signer had an opportunity, before signing, to read the full text of the affirmative vote, Ordinance or Referendum sought to be reconsidered. In addition, if the circulator of the petition sends the petition to a qualified signer to sign not in the presence of the circulator, the qualified signer signature shall be notarized.

d.

Within twenty (20) days after the petition is filed with the Town Council at a regular meeting, the Town Manager shall complete a certificate certifying its sufficiency or specifying any insufficiency, and shall promptly send a copy of the certificate to the circulator of such petition or the acknowledged representative of the Petitioners by certified mail with return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended one (1) time if the circulator files a Notice of Intention to Amend with the Town Manager within two (2) days after receiving a copy of the certificate and files a supplementary petition upon additional papers within five (5) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of this Section concerning form, content, and the affidavit of the circulator. Within five (5) days after a supplemental petition is filed, the Town Manager shall complete a certificate as to the sufficiency of the supplemental petition, as amended, and shall promptly send a copy of such certificate to the circulator by certified mail with return receipt requested, as in the case of the original petition.

e.

If a petition has been certified to be insufficient and the circulator has not filed Notice of Intention to amend, or if an amended petition has been certified insufficient, the circulator may,

within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Town Council. The Town Council shall review the certificate at the next regular Town Council Meeting following the filing of such request and approve or disapprove it, and the determination of the Town Council as to the sufficiency of the petition shall be final.

f.

Any person or persons, jointly or severally, aggrieved by the decision of the Town Council may present to the Superior Court of the State of Delaware, a petition duly verified, setting forth that such decision is invalid, in whole or in part, specifying the grounds of such invalidity. Such petition shall be presented to the Court within thirty (30) days following the determination by the Town Council as to the insufficiency of such petition. Upon presentation of the petition, the Court may allow a Writ of Certiorari directed to the Town Council to review such decision of the Town Council and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner or their attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the Writ shall stay proceedings upon the decision or determination appealed from. The Court may reverse or affirm, wholly or partly, or may modify the determination brought up for review.

g.

Upon the filing of the Petition for a Referendum with the Town Manager, the affirmative vote, Ordinance or Referendum sought to be reconsidered shall not be stayed or suspended from taking effect, and such Petition for a Referendum shall terminate upon the happening of any of the following events:

(1)

There is a final determination of insufficiency of the Petition; or

(2)

The Petition is withdrawn by the circulators thereof or sufficient copies thereof are withdrawn so that there are insufficient numbers of signatures as required by this Section; or

(3)

The Town Council repeals the affirmative vote, Ordinance or Referendum; or

(4)

Thirty (30) days have elapsed after a vote by the voters on the affirmative vote, Ordinance or Referendum; or

(5)

There is a final determination by the Superior Court.

h.

The Town Council shall reconsider the referred affirmative vote, Ordinance or Referendum at the first regular Town Council Meeting after the Petition for a Referendum has been finally determined to be sufficient. If the Town Council determines not to repeal the referred affirmative vote, Ordinance or Referendum, the referred affirmative vote, Ordinance or Referendum shall be submitted to the voters of the Town of Dewey Beach at an election.

i.

The vote of the eligible voters on a referred affirmative vote, Ordinance or Referendum shall be held not less than thirty (30) days and no later than sixty (60) days from the date the Town Council determined not to repeal the referred affirmative vote, Ordinance or Referendum. If the Annual Municipal Election is to be held within the period prescribed in this Section, such referendum shall be considered as part of that election. If the Annual Municipal Election is not to be held within the period prescribed in this Section, the Town Council shall provide for a special

election. If the Town Council fails to hold a referendum within the time specified in this Section, the affirmative vote, Ordinance or Referendum for which the petition was filed shall be deemed to be repealed at the expiration of sixty (60) days from the date that the Town Council determined not to repeal the referred affirmative vote, Ordinance or Referendum and such affirmative vote, Ordinance or Referendum shall not be passed in the same form for a period of one (1) year from the effective date of repeal.

j.  
The notice of the time and place of holding the said Special Election shall be printed in at least two (2) issues of a newspaper having a general circulation in the Town of Dewey Beach within thirty (30) days immediately preceding the date of the Special Election.

k.  
In all electoral proceedings, the Special Election shall be conducted in the manner of the annual election and the Election Judge and Election Board, as specified in Section 10 of this Charter and in Chapter 48 of the Code of Dewey Beach, shall oversee the proceedings of the election and have the authority and power to conduct the election.

l.  
Immediately after the closing of the polling place or places, the Election Board shall count the ballots for and against the proposition as presented, and shall announce the results thereof. The Election Board shall make a certificate under their hands of the number of votes cast for and against the proposed affirmative vote, Ordinance or Referendum and the number of void votes, and shall deliver the same to the Commissioners. The said certificate shall be filed with the Office of the Town Manager.

m.  
The form of the ballot of the said Special Section shall be as follows: **(78 Del. Laws, c. 346, 7/18/2012)**

- ( ) For the Referred affirmative vote, Ordinance or Referendum
- ( ) Against the Referred affirmative vote, Ordinance or Referendum

n.  
If the majority of the voters voting on a referred affirmative vote, Ordinance or Referendum vote against such affirmative vote, Ordinance or Referendum, it shall be considered repealed upon the certification of the result of the election by the Election Board. No affirmative vote, Ordinance or Referendum which has been repealed as the result of a referendum shall be passed again in the same form by the Town Council for a period of one (1) year from the date of the referendum.

o.  
The Town Council may, in their sole discretion, elect to adopt an ordinance, except for an ordinance specified not to be the subject of a referendum proceeding in subsection a, hereinabove, subject to a referendum. In such event, the Town Council shall, at the same time such ordinance is adopted, include in the language of said ordinance that such ordinance shall be the subject of a referendum. Upon the passage of the ordinance adopted subject to a referendum, such ordinance shall be suspended from taking effect until thirty (30) days after the results of the referendum, such referendum are returned indicating that the ordinance is approved by referendum. **(78 Del. Laws, c. 346, 7/18/2012)**

Nothing contained herein shall operate so as to require the Town Council to exercise its discretion to submit any ordinance to a referendum; and nothing contained herein shall operate to restrict the right of the eligible voters of the Town of Dewey Beach to initiate a referendum

pursuant this Section. However, the decision of the Town Council to submit an ordinance to a referendum shall, in the case of such ordinance, constitute the only referendum to which such ordinance shall be subjected; and there shall be no right to subject such ordinance to an additional referendum. **(78 Del. Laws, c. 346, 7/18/2012)**

14.

The Town Council shall have the authority to raise funds by charging a fee to owners of vehicles which are parked in the streets and other areas accessible to the public.

15.

The Town Council shall have the authority to grant licenses and impose fees for licenses, issue permits, and regulate any activity within the corporate limits specifically including any beach property whether previously dedicated, owned by the State of Delaware, or the Town, except as subsection (b) of this section may apply.

16.

The Town Council shall have the authority to levy and collect tax upon the renting or leasing of residential property located within the municipal boundaries of Dewey Beach, except that no accommodations tax for a residential rental shall be collected upon a valid rental agreement or valid lease agreement with a term of at least one (1) year. The accommodations tax on a residential rental shall be as set from time to time by the Town Council, but not to exceed three percent (3%) of the rent or lease amount unless approved by referendum. **This residential rental accommodations tax does not apply to the rental or lease of any property being assessed a public accommodation lodging excise tax under 30 Del. Laws, c. 61.<sup>9</sup> (77 Del. Laws, c. 29, 5/18/2009)**

(b)

Notwithstanding any provision in this Section or in this Act to the contrary, the Town Council shall have no power or authority to impose or require any fee, tax, license or permit regarding use of the beaches by persons for individual recreational purposes.

**Comment [DSK11]:** The intent is to amend to exclude hotels and motels from the existing accommodation tax, but need to review language of the associated 2008 referendum.

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<sup>9</sup> Note to Council: The committee recommends protecting the ability to enforce the current residential rental accommodations tax and suggests the Town Council review this language to protect the status quo in the face of possible state actions.