

**LAWS**  
*OF THE*  
**STATE OF DELAWARE**

*ONE HUNDRED AND THIRTY-EIGHT*

*GENERAL ASSEMBLY*

*FIRST SESSION COMMENCED AND HELD AT DOVER*

**On Tuesday, January 10, A.D.**

**1995**

*SECOND SESSION COMMENCED AND HELD AT DOVER*

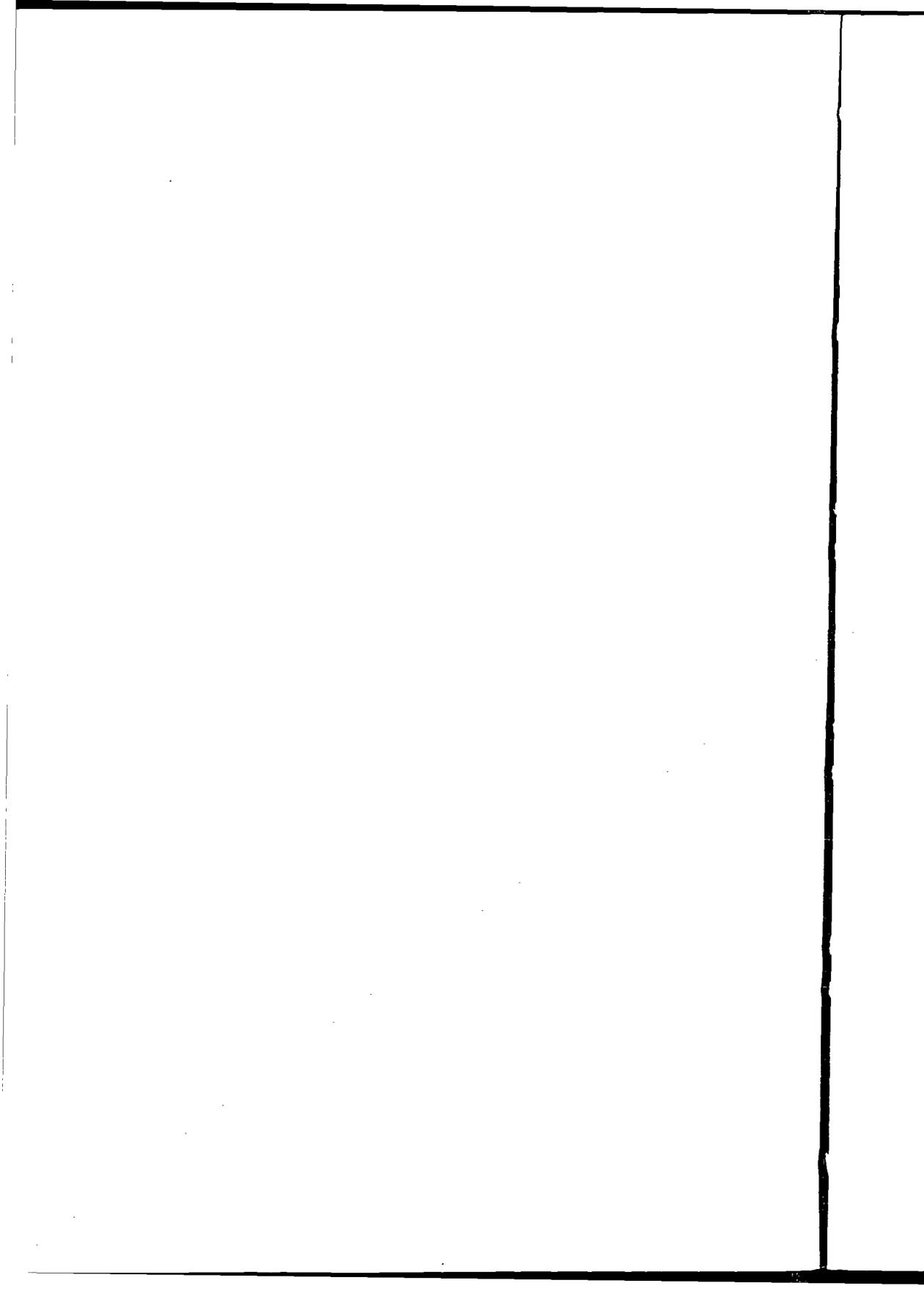
**On Tuesday, January 9, A.D.**

**1996**

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**VOLUME LXX**  
**Part I**

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CHAPTER 1  
FORMERLY  
SENATE BILL NO. 1  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE PUBLIC UTILITY TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §5502(b) of Title 30 of the Delaware Code by striking paragraph (2) of said subsection in its entirety and substitute in lieu thereof a new paragraph (2) to read as follows:

“(2) A tax is imposed upon any distributor of electricity commodities or services to business locations used primarily for the manufacture (as ‘manufacturing’ is defined in §2701 of this title and shall not include scientific, agricultural or industrial research, development, or testing) of goods within this State; for food processing (as food processing is described in §2903 of this title), agribusiness processing, or the hatching of chickens in conjunction with either food processing or agribusiness processing within this State; which tax shall be at the rate of 2% of the gross receipts or” tariff charges received by the distributor for said commodities or services distributed within this State. For purposes of this paragraph, in order for a business location to be ‘used primarily for the manufacture of goods or food and agri-business processing within this State,’ more than 70% of the employees employed at the business location must be employed in such activity exclusively within this State. Employees employed, by way of example and not limitation, in the management or administrative support of facilities other than or in addition to a Delaware manufacturing or food or agri-business processing facility are not employed exclusively in the manufacture of goods or food and agri-business processing within this State. For purposes of this subsection, the ‘business location’ means all contiguous real property in which the manufacturer or food or agri-business processor, as the case may be, has an interest, including a possessory interest. For purposes of this section ‘agribusiness processing’ means any processing, working, development, change, conditioning or reconditioning of raw materials or products into products of a different character, or effecting any combination or composition of materials, the inherent nature of which is changed such that the resulting product is food for consumption by livestock or is fertilizer for agricultural use.”

Section 2. This Act shall be effective for services or commodities distributed on or after January 1, 1995.

Approved February 3, 1995

## CHAPTER 2

## FORMERLY

## SENATE BILL NO. 2

AN ACT TO AMEND PART II OF CHAPTER 21, TITLE 21, DELAWARE CODE RELATING TO SPECIAL FARM VEHICLE REGISTRATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2113(2)(b), Title 21, Delaware Code by striking the number "5" as the same appears therein and substituting in lieu thereof the number "10".

Approved February 3, 1995

## CHAPTER 3

## FORMERLY

## SENATE BILL NO. 15

## AS AMENDED BY

## SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, TITLE 29 OF THE DELAWARE CODE RELATING TO THE APPOINTMENT OF NOTARIES FOR POLICE AGENCIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. AMEND §4305, Chapter 43, Title 29 of the Delaware Code by adding thereto a new inserting a new "subsection (d)" to read as follows:

"(d) The Governor shall, upon the request of the Chief of Police or acting Chief of Police of a unit of government whose personnel are full-time police officers and statutorily responsible for the prevention or investigation of crime involving injury to persons or property and who are authorized to execute search warrants and to make arrests, appoint a sufficient number of notaries public as may be requested by the Chief of Police or acting Chief of Police for the proper administration of their agencies. The appointments shall be for a term of four years, without charge to the appointee, Chief of Police or acting Chief of Police or police agency. Any such notary, so appointed, shall have no authority to perform any duties with respect to such office or to take affidavits or acknowledgments, except on documents and papers in connection with, and for the benefit of, their respective police agency. The notaries public appointed shall make no charge for any service rendered."

Approved February 1, 1995

## CHAPTER 4

## FORMERLY

## HOUSE BILL NO. 39

**AN ACT TO AMEND CHAPTER 214, VOLUME 65, LAWS OF DELAWARE, AS AMENDED, BEING THE CHARTER OF THE TOWN OF NEWPORT.**

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

**Section 1. Amend Section 1.02, Chapter 214, Volume 65, Laws of**

**Delaware, as amended, by adding to the end of said section the following:**

" ALL that certain parcel of land being located in Christiana Hundred, New Castle County, State of Delaware, beginning with the intersection of the centerline of Water Street and the centerline of Copper Drive, thence; running North 50 degrees-00'-00", West 40 feet more or less to the said point of beginning, being North 18 degrees-29'-17", West 30.00 feet more or less; thence running South 76 degrees-43'-35" West, with a radius of 5,411.56 feet and a chord of 933.64 feet, curving to the left; thence running South 5 degrees-30'-00", East 30.03 feet more or less, thence running North 76 degrees-44'-00" East with a radius of 5,441.56 feet and a chord of 990.42 feet curving to the right to the said point of beginning, containing 29,620 +/- square feet of land or 0.68 +/- acres. (Ordinance No. 422, July 12, 1990)

ALL that piece or parcel of land which joins and is contiguous to a portion of the southerly boundary of the Town of Newport in Christiana Hundred, State of Delaware BEGINNING at the intersection of the easterly terminal of Water Street, at 50 feet wide, with a line drawn parallel with and 60 feet southwardly at right angles from the southerly rail of the southerly tract of the four main line tracks of railroad of the Philadelphia, Baltimore and Washington Railroad Company;

Thence from the point and place of Beginning, along the southerly boundary line of said Railroad Company property, and parallel to said southerly rail of southerly track and distant 60.00 feet southerly therefrom when measured at right angles thereto, North 64 degrees-11'-30" 2.136.64 feet to the point of tangency of a curve having a radius of 2,994.57 feet;

Thence along the southerly boundary line of said Railroad Company property and parallel to said southerly rail of the southerly track of a Branch of Railroad known as the Shellpot Branch, and 60.00 feet southerly therefrom and at right angles and radially thereto, the following seven (7) courses and distances: (1) by said curve to the right in an easterly direction, an arc distance of 130.66 feet to the point of tangency of said curve; (2) North 66 degrees-41'-30" East, 200.10' to the point of curvature of a curve having a radius of 807.05'; (3) by said curve to the left in a northeasterly direction, an arc distance of 35.21' to the point of tangency of said curve; (4) North 64 degrees-11'-30" East, 1,367.18' to the point of tangency of a curve having a radius of 6,449.69' (5) by said curve to the left in a northeasterly direction, an arc distance of 262.63' to the point of tangency of said curve; (6) North 61 degrees-51'-31" East 272.33' to the point of curvature of a curve having a radius of 9,999.39' and (7) by said curve to the right in an easterly direction, an arc distance of 464.71' to a point. Thence North 25 degrees-28'-43" West 5.00' to a point 55.00' southerly from said southerly rail of southerly track of said Shellpot Branch of Railroad. Thence parallel to the said southerly rail and 55.00' southerly therefrom when measured at right angles thereto, the two (2) following courses and distances (1) North 64 degrees-11'-1" East, 254.38' to the point of curvature of a curve having a radius of 11,322.70'; and (2) by said curve to the right in an easterly direction an arc distance of 428.55' to a point in the northerly side of interstate highway I-95 at 400 feet wide. Thence thereby South 40

degrees-13'-40" West 587.43' to a point in the mean high water line on the north side of the Christina River. Thence along the said mean high water line on the north side of the Christina River, its various meandering courses thereof, in a southwesterly direction, 5840 feet, more or less, to a corner for lands of Matthew K. Kelter, Thence along said lands of Matthew K. Kelter the three (3) following described courses and distances: (1) North 44 degrees-04'-22" West, 262.60' to a point; (2) South 78 degrees-47'-38" West 84.30' to a point; and (3) South 59 degrees-43'-51" West, 451.97' to a point in the northeasterly side of Marsh Lane at 50 feet wide; Thence along said northeasterly side of Marsh Lane the three (3) following described courses and distances: (1) North 36 degrees-53'-22" West 11.41' to a point (2) North 74 degrees-29'-22" West, 470.73' to a point; and (3) North 70 degrees-00'-22" West, 254.83' to the point of intersection of the said northeasterly side of Marsh Lane with the southerly side of Water Street extended; Thence along the terminal end of Water Street, North 25 degrees-48'-30" West, 35.93 to a point in the southerly property line of The Philadelphia, Baltimore and Washington Railroad Company property to the first mentioned point and place of Beginning. Containing within the said described metes and bounds, 23.5 +/- acres of land, be the same more or less. (Ordinance No. 426, adopted February 14, 1991)

All that certain piece, parcel or tract of land which adjoins and is contiguous to the westerly and southerly boundary of the Town of Newport, in Christiana Hundred, New Castle County, State of Delaware, more particularly described as follows, to wit: Beginning at a point on the southerly side of the Philadelphia, Baltimore and Washington Railroad, said point being 40 feet off the centerline of tracks 2 and 3, a common corner for that portion of lands of Ciba-Geigy which is presently within the Town of Newport and lands herein being described and located the following five courses and distances along the southerly side of the Philadelphia, Baltimore and Washington Railroad from the point formed by the intersection of the southerly side of the Philadelphia, Baltimore and Washington Railroad (49 feet off the centerline of tracks 2 and 3) with the westerly side of James Street (55 feet wide); 1) 49 feet off and parallel to the centerline of tracks 2 and 3, South 88 degrees, 00 minutes, 08 seconds West, 100.00 feet to a point thence; 2) North 01 degrees, 59 minutes, 52 seconds West, 16.00 feet to a point, thence; 3) 33 feet off and parallel to the centerline of tracks 2 and 3, South 88 degrees, 00 minutes, 08 seconds West, 255.00 feet to a point, thence; 4) South 01 degrees, 59 minutes, 52 seconds East, 7.00 feet to a point, thence; 5) 40 feet off and parallel to the centerline of tracks 2 and 3, South 88 degrees, 00 minutes, 08 seconds West, 324.69 feet to the Point of Beginning. Thence, from said Point of Beginning the following twenty courses and distances: (1) through lands now or formerly of Ciba-Geigy and with the Town of Newport limits, South 00 degrees, 03 minutes, 37 seconds East, 734 feet more or less to a point on the northerly low water line of the Christina River, thence, with same; (2) 554 feet, more or less to a corner for lands now or formerly of E. I. du Pont de Nemours and Company, thence with same the following fourteen courses and distances; (3) North, 224.20 feet to a point, thence; (4) West, 71.25 feet to a point, thence; (5) South 64 degrees, 32 minutes, 45 seconds West, 153.05 feet to a point, thence; (6) West, 267.70 feet to a point, thence; (7) crossing Christina Street, parallel to a 20 foot wide paved roadway and 2.5 feet more or less easterly and parallel to an existing 8" sewer, north, 300.76 feet to a point, thence; (8) 0.5 feet more or less southerly and parallel to the southerly foundation wall of Building A-216, East, 103.20 feet to a point, thence; (9) parallel to Building A-216 and 11.0 feet more or less parallel to Building A-202, North, 192.50 feet to a point, thence; (10) West, 16.20 feet to a point, thence; (11) North 45.30 feet to a point, thence; (12) radially crossing a spur track, North 64 degrees, 54 minutes, 52 seconds East, 20.00 feet (crossing the centerline of the spur track at 10.00 feet) to a point, thence; (13) North, 121.82 feet to a point in the southerly side of an existing walkway for Water Street, thence, with same; (14) East, 116.10 feet to a point, thence; (15) North, 99.35 feet to a non-tangent point of curvature, thence; (16) by an arc curving to the left having a radius of 390.78 feet, an arc distance of 143.91 feet (chord = North 67 degrees, 04 minutes, 05 seconds West, 143.10 feet) to a non-radial point of reverse curvature on the southerly side of the Philadelphia, Baltimore and Washington Railroad, thence; (17) 60 feet off and parallel to the centerline of tracks 2 and 3, by an arc curving to the right having a radius of 9,762.13 feet, an arc distance of 261.66 feet to a point, thence; (18) radially, North 04 degrees, 12 minutes, 22 seconds West, 20.00 feet to a point, thence; (19) 40 feet off and parallel to the centerline of tracks 2 and 3 this and the next course and distance by an arc curving to the right having a radius of 9,782.13 feet, an arc distance of 377.03 feet to a point

of tangency, thence; (20) North 88 degrees, 00 minutes, 08 seconds East, 192.02 feet to the Point of Beginning. Containing within said metes and bounds 24.854 acres of land, be they the same, more or less. (Ordinance No. 437, November 11, 1993)"

**Section 2. Amend Section 3-01, Chapter 214, Volume 65, Laws of**

**Delaware, as amended, by adding the following to the end of said**

**section:**

"in which case the form of government established shall be known as the Council - Town Manager form."

**Section 3. Amend Section 3-08, Chapter 214, Volume 65, Laws of**

**Delaware, as amended, paragraph B. Appointment and removals by striking the words "and removal" from the fifth line of the paragraph.**

**Section 4. Amend Section 3-15, Chapter 214, Volume 65, Laws of**

**Delaware, as amended, by deleting the first sentence thereof in its entirety and replacing in lieu thereof the following:**

"An organizational meeting of the Commissioners of Newport shall be held on the second Thursday in April, immediately prior to the regularly scheduled meeting."

**Section 5. Amend Section 4-01, Chapter 214, Volume 65, Laws of**

**Delaware, as amended, Paragraph B. Use of County Assessments by striking the third sentence in its entirety and replacing in lieu thereof the following:**

"The Commissioners then shall order the adoption of such County assessment for municipal purposes or the adoption of assessments as determined by the Town assessment authority; provided, however, that adoption of the County assessment for municipal purposes shall not preclude the Town from modifying the County assessment list to take into account new construction, tax exemption status, or use not reflected in the County assessment list, or clear cases of inequitable assessment."

**Section 6. Amend Section 4-01, Chapter 214, Volume 65, Laws of**

**Delaware, as amended, Paragraph D. Assessment Board of Appeals by striking in its entirety and substituting in lieu thereof the following:**

" D. Assessment Board of Appeals. Each year, at least 30 days before the beginning of the tax year, the Commissioners shall, upon receipt of a application for an assessment appeal, hold a Board of Appeals, during which time the Commissioners shall hear and determine appeals from assessments and shall make such corrections and additions as deemed necessary and proper. The decision of a majority of the Commissioners sitting on appeals shall be final and conclusive in respect to all appeals.

No Commissioner shall sit on his/her own appeal, but the same shall be heard and determined by the other Commissioners. After the said valuation and assessment shall be examined and adjusted by the Commissioners, all property taxes shall be levied on real and personal property thus assessed in just and equal proportions.

**Section 7. Amend Section 4-02, Chapter 214, Volume 65, Laws of**

**Delaware, as amended**, by deleting all text after the word "shall" in the third sentence, and replacing in lieu thereof the following:

"prior to the first day for the fiscal year, the Commissioners shall adopt a tax rate for that year."

**Section 8. Amend Section 4-03, Chapter 214, Volume 65, Laws of**

**Delaware, as amended**, by deleting the first sentence of the section in its entirety without replacement; and that the second sentence of the section be amended to read as follows:

"All taxes shall be paid to the Town by the close of business on June 30th, or the next banking day if June 30th falls during a weekend or a holiday, of each year."

**Section 9. Amend Section 4-04, Chapter 214 Volume 65 Laws of**

**Delaware, as amended**, paragraph B. Debt action by deleting the words "Town Clerk" whenever said words occur, and replace in lieu thereof the word "Town".

**Section 10. Amend Section 5-01, Chapter 214 Volume 65, Laws of**

**Delaware, as amended**, by changing the last word of said section from "ordinance" to "ordain".

**Section 11. Amend Section 5-05, Chapter 214, Volume 65, Laws of**

**Delaware, as amended**, by deleting the words "Town Clerk" and substituting in lieu thereof the words "Town Secretary".

**Section 12. Amend Section 6-02, Chapter 214, Volume 65, Laws of**

**Delaware, as amended**, by striking in its entirety and substituting in lieu thereof the following:

"All payments out of the Town bank accounts shall be by check. Two signatures must be affixed to all checks. The Mayor, Commissioners and the Town Manager shall be authorized to sign checks."

**Section 13. Amend Section 6-03, Chapter 214, Volume 65, Laws of**

**Delaware, as amended**, by striking in its entirety and substituting in lieu thereof the following:

**"Section 6-03. Annual Revenue and Operating Budget**

Annually, and not later than sixty (60) days before the beginning of the fiscal year, the town manager shall submit to the Commissioners a budget for the ensuing fiscal year and an accompanying message.

A. **Budget Message.** The town manager's message shall explain the budget both in terms of work programs and in fiscal terms. It shall describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes; summarize

the town's debt position; and include such other material as the town manager deems desirable.

B. **Budget.** The budget shall present the financial plan for conducting the affairs of the town for the ensuing fiscal year and shall comprehend all departments, offices and agencies, and all funds and monies anticipated to be realized by and expended by the town during said fiscal year. In organizing the budget, the town manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, activity and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures for the current year. It shall include in separate sections:

- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs; and
- (2) Proposed capital expenditures during the ensuing fiscal year.

The total of proposed expenditures shall not exceed the total of estimated income."

**Section 14. Amend Section 6-04, Chapter 214, Volume 65, Laws of**

**Delaware, as amended, by striking it in its entirety and substituting in**

lieu thereof the following:

**"Section 6-04. Commissioners Action on the Budget**

The Commissioners shall cause to be posted in at least five (5) prominent places located in the town, a general summary of the proposed budget, a notice of the times and places where copies of the budget are available for inspection and the time and place for a public hearing on said budget. Such notice shall be posted at least seven (7) days prior to each such hearing.

After the public hearing, the Commissioners may adopt, by resolution, the budgets with or without amendment. The Commissioners may insert new items or expenditures or may increase, decrease or strike out items of expenditure, except that no item of appropriation of debt service shall be reduced.

The budget for the ensuing fiscal year shall be adopted by the Commissioners not later than the last day of the fiscal year currently ending. The tax rate for the ensuing fiscal year shall be adopted at the time the budget is adopted. If it fails to so adopt, the budget submitted by the town manager for operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items in it prorated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. Also, during such period, the Commissioners may appropriate amounts requested by the town manager for specific capital improvement projects, provided that the town manager certify that the necessary funds are available therefore."

**Section 15. Amend Section 6-05, Chapter 214, Volume 65, Laws of**

**Delaware, as amended, by striking it in its entirety and substituting in**

lieu thereof the following:

**"Section 6-05. Budget Amendments after Adoption**

If at any time during the fiscal year it appears probable to the town manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicated the estimated amounts of the deficit, any remedial action taken by him, and his recommendations as to any other steps to be taken. The Commissioners shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose, it may reduce one or more appropriations.

The town manager may at any time during the fiscal year transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency; and at any time during the fiscal year, upon written request of the town manager, the Commissioners may transfer part or all of any unencumbered appropriation balance from one department, agency to another.

All actions taken under the provisions of this section shall be at regular council meetings and shall be recorded in the council minutes."

**Section 16. Amend Chapter 214, Volume 65, Laws of Delaware, as amended, by re-numbering Section 6-06 to Section 6-07; Section 6-07 to Section 6-08; Section 6-08 to Section 6-09; and Section 6-09 to Section 6-10; and by inserting a new Section 6-06 to read as follows:**

**"Section 6-06. Capital Program**

**A. Submission to the Commissioners.** The town manager shall prepare and submit to the Commissioners a five-year capital program at least four (4) months prior to the final date for the submission of the budget. The capital program shall include the following elements and information:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing with appropriate supporting information as to the necessity for such improvements.
- (3) Cost estimates, method of financing, and recommended time schedules for such improvements; and
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

**B. The Commissioner Action on Capital Program.** The Commissioners shall hold such deliberations and hearings as it deems desirable concerning the proposed capital program. It shall adopt the final program, with or without amendments, deletions or additions, no later than sixty days prior to the end of the current fiscal year.

The town manager shall incorporate the approved capital program and projects for the current year into the budget.

**C. Definition of "Capital".** For the purpose of this section, "capital" shall be defined as any project or equipment, including any extension or addition thereto or thereof, having a life expectancy in excess of, or to be financed over a period greater than six (6) years, or a value exceeding five thousand dollars (\$5,000.00).

**D. Perpetuation of Program.** The capital program shall be revised and extended each year with regard to capital improvements still pending or in process