

RESOLUTION NO. 21-07

**A RESOLUTION REGARDING A CODE OF CONDUCT AND DECORUM FOR THE
MILLVILLE TOWN COUNCIL POLICIES & PROCEDURES MANUAL**

WHEREAS, the Town of Millville is currently covered by the Code of Conduct in Title 29, Chapter 58 of the Delaware Code; and

WHEREAS, the State's Code of Conduct applies unless a municipality adopts and receives approval for an individual code of conduct at least as stringent in its application to its elected and appointed officials, and Millville has not sought an individual code; and

WHEREAS, the State's Code of Conduct focuses on: restricting participation if there is a personal or private interest in a matter before the official; contracting with the State; restricting acceptance of gifts, outside employment or anything of monetary value; limiting use of public office for personal gain or benefit; prohibiting improper use or disclosure of government confidential information; prohibiting the use the granting of sexual favors as a condition for an individual's favorable treatment; and barring conduct that creates a justifiable impression of improper conduct; and

WHEREAS, in addition to the scope of the State's Code of Conduct, it is important to specifically describe the expectation of professional behavior for all Councilmembers, as Councilmembers must hold the respect and confidence of the people and set an example for appropriate conduct; and

WHEREAS, the Town employees should be and are held to a professional level of conduct dealing with the citizens of Millville and in the work environment as outlined in their employee manual; and

WHEREAS, Councilmembers should be held to an equal or higher level of professionalism in dealing with the public and with other Councilmembers; and

WHEREAS, Councilmembers would benefit from specific standards to guide their conduct and guidance on appropriate and professional behavior of all Councilmembers, whether on the dais in public meetings, in Town Hall, engaging with Town employees and other officials, or performing any Town business outside of Town Hall; and

WHEREAS, the Town and the Councilmembers would benefit from clearer mechanisms to guarantee uniform maintenance and enforcement of those standards;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Millville hereby approves and adopts the following revisions to the language in the Millville Town Council Policies and Procedures Manual:

Section 1. Insert on page 38, under "VI. Policy Decision-Making Process," at the end of "2. General Decorum for Town Council, Commissions and Committees."

- Abide by the State Code of Conduct as per Title 29 § 5806 of the Delaware Code, entitled "Code of Conduct."

- Refrain from baseless accusations made to Town Officials (defined as Members of the Council, a Committee, Board, Commission, Task Force, or other multi-member body), and Town Employees.
- Refrain from posting information detrimental to any Town Official on all public platforms that may be construed as hostile, defamatory or in any way detrimental to the character of the individual.
- Always respect the opinion and vote of all Town Council Members, as reasonable minds can and frequently do differ.

Procedures for Enforcement

a. Complaint Process and Appeal Process - A complaint alleging that the Decorum or Ethics Guidelines have been violated by any member of the Council, a Committee, Board, or Commission shall be filed in writing with the Millville Town Council (Council). If the Council believes the complaint alleges a violation of the State Code of Conduct, the Council shall refer the complainant to the Public Integrity Commission. If the Council does not believe the allegations invoke the State Code of Conduct, the Council shall promptly designate an individual(s) to conduct an investigation of the complaint and notify the Council, Town Manager and Town Solicitor in writing of the pending investigation. The person(s) designated by the Council shall complete the investigation by following the Pre-disciplinary Procedures and prepare written findings, conclusions, and recommended disposition within 60 days of the date the complaint was received by the investigator, unless an extension is granted in writing by the Council. A copy of investigator's written findings, conclusions, and recommended disposition shall be provided to the Council, Town Manager and Town Solicitor. Within ten business days of receipt of the investigator's written findings, conclusions, and recommended disposition, Council shall prepare a written recommended disposition of the complaint and forward by certified mail to the complaining party and the party complained against at their last known addresses. Additional copies of the recommended disposition shall be forwarded to the investigator(s), the Town Manager and the Town Solicitor. The recommended disposition shall not be implemented until the time for requesting a formal hearing has lapsed and no such hearing has been requested. A disposition involving discipline shall not be implemented except upon compliance with the pre-disciplinary procedures. The person complained against may, within ten business days following the date of the written recommended disposition based on finding a violation of the Decorum or Ethics Guidelines request in writing to Council a formal hearing before the Council. Additional copies shall be forwarded to the investigator(s), Town Manager and Town Solicitor.

b. Pre-disciplinary Procedures - It is imperative that the individual(s) conducting the investigation **thoroughly review the incident at hand**. The investigation may entail interviewing other Town Officials, persons present at the time of the incident, or other witnesses for details on the incident. Prior to holding a disciplinary hearing : 1) Gather the facts - the allegation, evidence, and the past record of the subject of the complaint; 2) Try to resolve the issue informally first. If this does not work, raise the matter formally without delay; 3) Inform the subject of the complaint in writing, explaining the reason for the hearing and when it will take place, allow the Town Official at least three working days' notice to prepare a case.

c. Enforcement - The Council may recommend as appropriate any person found by a preponderance of evidence to have violated any provision of the Decorum or Ethics Guidelines any one or a combination of the following penalties: 1. A cease and desist order as to violations of this Code of Ethics; 2. An order to disclose any reports or other documents or information requested by the Council; 3. To the extent applicable and available by law, discipline and

reprimand, up to and including termination or removal from any position, whether paid or unpaid, including elected positions, only after notice and hearing as provided by law.

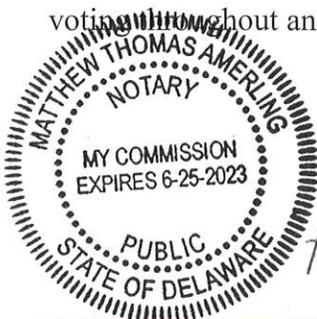
d. Reprimand - A reprimand shall be administered to the individual by a resolution of reprimand by the Council. The resolution shall be prepared by the Council, Town Manager and Town Solicitor and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor. If the Town Official objects to the content of such resolution, he or she may file with the Mayor or, if the complaint is against the Mayor, the Deputy Mayor, a request for review, stating the reasons for his or her objections and asking for a review of the content of the resolution of reprimand by the Council. The Council shall review the resolution of reprimand in light of the Council's findings and the request for review and may take whatever action, if any, appears appropriate under the circumstances. The action of the Council shall be final and not subject to further review or appeal except as may be otherwise provided by law.

e. Censure - A resolution of censure shall be a resolution read personally to the individual in public. The resolution shall be prepared by the Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor. The subject Town Official shall appear at a Council meeting at a time and place directed by the Council to receive the resolution of censure. Notice shall be given at least 15 calendar days before the scheduled appearance, at which time a copy of the proposed resolution of censure shall be provided to the elected official. Within seven days of receipt of the notice, if the Town Official objects to the contents of such resolution, he or she may file with the Mayor or, if the complaint is against the Mayor, the Deputy Mayor, a request stating the reasons for objections and asking for a review of the content of the proposed resolution of censure by the Council. Such request will stay the administration of the censure. The Council shall review the proposed censure in light of the Council's findings and the request for review and may take whatever action, if any, appears appropriate under the circumstances. The action of the Council shall be final and not subject to further review or appeal except as may be otherwise provided by law. If no such request is received, the resolution of censure shall be administered at the time and place set. It shall be read publicly and the individual shall not make any statement in support of or in opposition thereto, or in mitigation thereof. A censure shall be administered at the time it is scheduled whether or not the individual appears as required.

f. Removal - If permitted by law, in addition to any other penalties that may be imposed, Council may make recommendation for removal of any violator of the Decorum or Ethical Guidelines if that member is found by the Council to have committed a serious violation.

Section 2. This Resolution shall take effect upon its enactment.

I, Barbara Ryer, Secretary of the Town Council of the Town of Millville, hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the Town Council of the Town of Millville at its meeting held on **August 11, 2020**, at which a quorum was present and voting throughout and that the same is still in full force and effect.



Barbara Ryer
SECRETARY

Matthew Thomas Amerling