Section 1 **AN ACT TO REINCORPORATE THE TOWN OF MILLVILLE**

The inhabitants of The Town of Millville within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided are hereby declared to be a body politic incorporated in law and equity and shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of judicature whatsoever by the corporate name of "The Town of Millville".

The Town shall have perpetual succession and shall succeed to own or possess all property, whether real, personal or mixed, tangible or intangible, or whatever kind and nature, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed or enjoyed by the Town of Millville previously incorporated at Chapter 217, Volume 24, Laws of Delaware, as amended.

Section 2 **TERRITORIAL LIMITS**

The limits and boundaries of the Town of Millville in Sussex County, Delaware, shall be as previously fixed and established or hereafter altered according to law and shall be marked and defined according to maps and plots now of record or hereafter recorded in the Office of the Recorder of Deeds in and for Sussex County pursuant to lawful annexation proceedings. Such maps and plots, when so made and approved by Town Council, and when recorded in the Office of the Recorder of Deeds of the State of Delaware in and for Sussex County, shall be deemed to be the true and correct maps and plots of the Town and of all the streets, boundaries, lanes, and alleys thereof, and the same, or the record thereof, or a duly certified copy of said record, shall be evidence in all courts of law and equity in the State of Delaware. (77 Del. Laws, c. 5, 02/04/09; 80 Del. Laws, c. 267, 06/22/16)

Section 3 **ANNEXATION OF TERRITORY**

In the event it becomes feasible ~~and necessary~~ in the future for The Town of Millville to enlarge its then existing limits and territory, such annexation accomplished pursuant to the following procedures shall be lawful:

Comment [ST1]: My thought is to strike this. Necessity is a pretty high bar. I'm not sure it's ever truly necessary for the town to annex.

~~**(a)** If all of the property owners of a territory contiguous to the then existing corporate limits and territory of The Town of Millville, by written Petition with the signature of each such Petitioner duly acknowledged, shall request the Town Council to annex that certain territory in which they own property, the Mayor of The Town of Millville shall appoint a Committee composed of not less than three (3) of the members of the Town Council to~~

~~investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written Report containing its findings and conclusions to the Mayor and Council of Millville, The Report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millville and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Millville may then pass a Resolution annexing such territory to The Town of Millville. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the members of the Town Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided in Subsection **(b)** as if the annexation were proposed by five (5) or more property owners but less than all the property owners of a territory contiguous to the then limits and territory of The Town of Millville.~~

(a) At least eighty percent (80%) of property owners for the area seeking annexation of territory contiguous to the then existing corporate limits and territory of the Town of Millville, by written Petition with the signature of each such Petitioner duly acknowledged, shall request the Town Council to annex that certain territory in which they own property. However, for a Petition seeking annexation of an existing residential subdivision, at least eighty percent (80%) of the property owners of the lots of record, rather than the area, shall so request.

(b) The Petition shall include a description of the territory requested to be annexed, a current survey, and the reasons for the requested annexation. If the Petition ~~of Annexation Agreement~~ is requesting~~requiring~~ a higher density than an R – Residential zoning, a concept~~ual site~~ plan is required. Further, the applicant or applicants shall notify all residents within 200 feet of any boundary of the territory for which the applicant is seeking annexation at the applicant's expense, and provide copies of such notification to the Town Manager or designee.

(c) The Town Manager or designee having verified the notifications, the Mayor of the Town of Millville shall appoint a three (3) member Annexation Committee to investigate the possibility of annexation and report back to the ~~Mayor and~~ Town Council in no more than ninety (90) days, unless evidence is presented that indicates due cause, including

Comment [ST2]: The current Charter has two paths for annexation: one for when all the owners want the annexation and the other if less than that do. The revisions remove that second path. That may well make sense. I just wanted to flag it. For an example of less than all owners, see Section 4 of Ocean View's Charter. (It also has different processes for a property less than 5 acres.)

Comment [MA3]: The new language from items A-N comes directly from Milton's Annexation of Territory.

Comment [ST4]: Millville Code uses the term "concept plan". We'll want to continue to use that term in the land use ordinance revisions, unless the Town has a different term in mind.

Comment [DB5]: Seth, if applicant submits a conceptual site plan, what binds the applicant to not change when its time to submit preliminary?

Comment [ST6]: The annexation agreement can incorporate the concept plan, so that the developer is bound by contract by the concept plan (with language that allows for changes during the usual land use process).

Comment [ST7]: One thought: because Millville allows anything to be requested by conditional use, maybe the wording is better to say "requesting any development other than single-family detached dwellings."

misinformation or possible criminal intent. In that case, the Mayor and Town Council may extend the reporting time for a fixed period to fully investigate the allegation(s). Prior to beginning work on the report, the members of the Annexation Committee will have been voted upon and approved by a majority of the Mayor and Town Council. The Annexation Committee shall consist of two (2) members of the current Town Council and one (1) member of the current Planning and Zoning Commission, none of whose terms shall be set to expire for the expected duration of the business for which the Annexation Committee shall have been appointed.

(d) Upon the majority vote of the Mayor and Town Council approving each appointee to the Annexation Committee, the new Committee is to begin work immediately to prepare a written report of its findings within ninety (90) days, unless this period is extended for due cause.

(e) The assessmentreport by the Annexation Committee will consider the positive and negative impacts on the capacities and qualities of the Town of Millville's town systems and services, the impact on Millville taxpayers, and other elements, as determined necessary by the Mayor and Town Council in consultation with the Town Manager or designee. By a 2/3rds vote approval by the Mayor and Town Council of the majoritymembers present and voting, the Mayor and Town Council will also determine if a cost/benefit analysis is to be prepared so as to further identify the advantages and disadvantages to the Town of Millville with regard to the annexation. The Annexation Committee may utilize the staff of the Town of Millville to assist in the conduct of its ninety (90) day investigation and report as to the annexation advantages and disadvantages. The report will include a listing of the advantages and disadvantages of the Pannexation petition. Before, or at the end of the ninety (90) day period, the Annexation Committee will report back to the Mayor and Town Council, and include the Annexation Committee's conclusions as to the advantages and disadvantages to the Town of Millville of the annexation petition, with the interest of the Town of Millville being the sole concern of the Annexation Committee. All meetings of the Annexation Committee shall comply with the be in public with notice required by FOIA act (Delaware Freedom of Information Act).

Comment [ST8]: This sentence seems redundant.

(bf) If five Upon receipt of the report, the Mayor and Town Council will vote to accept the report, reject the report, or refer it to the Annexation Committee to accommodate new information. If referred to the Annexation Committee, the report must be resubmitted to the Mayor and Town Council by the Annexation Committee at its next regularly scheduled meeting and a vote must then be taken. If referred to the Annexation Committee, the Mayor and Town Council must first vote to extend the due date of the report from ninety (90) days to the next regularly scheduled meeting. If the report to the

~~Mayor and~~ Town Council on the annexation determines that the proposed annexation is advantageous overall to the Town of Millville, the ~~Mayor and~~ Town Council shall vote on the recommendation. If the ~~Mayor and~~ Town Council accepts the report~~, then they shall vote to refer~~ the P~~p~~etition shall be referred to the Planning and Zoning Commission ~~at the Commission's next duly noticed meeting~~. Referral of the annexation petition requires a simple majority vote of the members of ~~Mayor and~~ Town Council present and voting. If the ~~Mayor and~~ Town Council reject the report, refer to subsection **(g)** of this Section. ~~(5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of The Town of Millville by written Petition with the signature of each such Petitioner duly acknowledged shall request the Town Council to annex that certain territory in which they own property, . the Mayor of The Town of Millville shall appoint a Committee composed of not less than three (3) of the members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. In the alternative the Town Council, by majority vote of the members thereof may, by Resolution, propose that a committee composed of not less than three (3) of the members of the Town Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of The Town of Millville.~~

(g) In the event that the Annexation Committee concludes that the proposed annexation is disadvantageous overall to the Town of Millville, or if the ~~Mayor and~~ Town Council rejects a report from the Annexation Committee that determined the proposed annexation is advantageous to the Town, the applicant(s) for annexation must wait 365 days from the date of the presentation to the ~~Mayor and~~ Town Council by the Annexation Committee before again petitioning the ~~Mayor and~~ Town Council. Each and all the procedures pertaining to ~~an~~ annexation ~~procedure~~, as provided in this Section, are again applicable and shall be repeated.

(h) Upon receipt of the ~~Mayor and~~ Town Council's referral of the annexation petition to the Planning and Zoning Commission, said Commission shall~~will~~ consider and discuss the annexation request at its next duly noticed meeting and shall review the petition and ~~site~~concept plan (if required), including the zoning classification(s) requested by the petitioner. After not more than sixty (60) days the Planning and Zoning Commission shall~~will~~ make its recommendation on zoning classification[s] and transmit its~~that~~ recommendation(s) and ~~their~~ comments on the ~~annexation~~ petition and the ~~site~~concept plan (if required), in writing, back to the ~~Mayor and~~ Town Council.

(i) At its next duly noticed meeting, following the ~~Mayor and~~ Town Council's receipt of Planning and Zoning's report on the annexation request, ~~site~~concept plan (if required),

Comment [ST9]: Because Millville's Council is just 5 members, I think we use this voting mechanism, to avoid a problem if a member or two are absent or have a conflict.

Comment [ST10]: Any thought to making this relate to the same project, or does the year apply to the land itself?

and recommendation(s) for the zoning classifications, the ~~Mayor and~~ Town Council shall~~will~~ schedule a public hearing on the ~~annexation~~ petition, such hearing to be held not more than thirty (30) days after its next scheduled meeting. Following the public hearing, the ~~Mayor and~~ Town Council shall, within thirty (30) days, exercise one of the following options: (1) take a final vote on whether or not to approve the annexation request, in which case the vote to annex must pass by the affirmative vote of two-thirds (2/3) of all the members of the ~~Mayor and~~ Town Council present and voting; or (2) vote by simple majority of the members present and voting, to hold a Town of Millville town-wide referendum on the ~~annexation~~ petition. The ~~Mayor and~~ Town Council may~~reserve the right to~~ add conditions to the terms of annexation, by simple majority vote of members present and voting, prior to ~~their~~its final vote on the ~~annexation~~ petition. If the ~~Mayor and~~ Town Council votes to accept the ~~annexation~~ petition, implementation of this decision must wait thirty (30) days, during which time the citizenry of Millville ~~have up to thirty (30) days to~~may file a petition with the Town Manager or designee requesting that a special referendum be held on the Town Council's decision to annex. This petition ~~shall~~must include over 10% of Millville's registered voters able to vote in a referendum, and the referendum shall be held within sixty (60 days following the filing of the petition for referendum with the Millville Town Manager or designee.

(j) If a referendum on the annexation ~~a~~ petition ~~for annexation~~ is to be held, the ~~Mayor and~~ Town Council shall instruct the Town Manager or designee of Millville to schedule a special ~~public~~ referendum on the annexation petition. If the ~~Mayor and~~ Town Council votes in favor of a referendum, the ~~Mayor and~~ Town Council will order that a public referendum vote be scheduled no later than sixty (60) days thereafter, and that a Resolution for annexation must be passed by a majority vote of the citizens of the Town of Millville who voted, and results of the referendum vote will be binding.

(k) At this and all s~~S~~pecial Referenda~~dum(s)~~, every non-resident property owner, whether an individual, partnership, ~~or a~~ corporation or other artificial entity, in The Town of Millville shall have one (1) vote. ~~Resident and~~ N~~n~~on-resident property owner~~(s)~~ whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. Every resident citizen of The Town of Millville over the age of eighteen (18) years whether a property owner(s) or not shall have one (1) vote. The books and records of The Town of Millville in the case of non-resident property owners, and a copy of the required personal identification in the case of resident citizens of the Town, shall be conclusive evidence of the right of such property owners and citizens to vote at the s~~S~~pecial referendum. The Board of Election of the Town of Millville shall supervise any special referenda~~ums held under this provision~~.

Comment [ST11]: Is the Town currently maintaining a roll of voters?

Comment [ST12]: Do you want to make this 60 days? It seems like a short time to get a referendum organized with the Dept of Elections, especially since you don't routinely have elections and an election board.

Comment [ST13]: This would likely be farmland. I could see the argument that you would want them to be able to vote.

(l) The notice of the time and place of the s~~said S~~pecial r~~R~~eferendum shall be printed, within fifteen (15) days immediately following the vote or petition to hold a referendum, in at least one (1) news-paper~~s~~ having a general circulation in the Town of Millville, and posted in four (4) public places, including the Town bulletin board and posted on the Town of Millville website, at least fifteen (15) days prior to the date set for the ~~said~~ s~~S~~pecial r~~R~~eferendum.

(m) Following the thirty (30) day hold period to accommodate the filing of a petition, if no petition is filed, and if a favorable vote for annexation shall have been cast, the ~~Mayor and~~ Town Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, but in no event shall said recordation be completed more than one-hundred twenty (120) days following the date of the favorable ~~Mayor and~~ Town Council vote or the ~~in the case of a~~ s~~S~~pecial r~~R~~eferendum vote~~no more than one-hundred twenty (120) days after said Special Referendum~~. The territory ~~considered~~ for annexation shall be considered to be a part of The Town of Millville from the time of recordation. The failure to record the description or the plot within the specified time will cause the annexation petition to be tabled before the Town Council. Failure to achieve recordation in the one-hundred twenty (120) day period requires the ~~Mayor and~~ Town Council to vote again on the annexation petition, whether or not the ~~Mayor or~~ Town Council, or qualified voters of Millville in a referendum, have voted on the annexation petition. ~~(This provision is to allow accommodation of an investigation of allegations of misrepresentation and/or fraud presented to the Mayor and Town Council in the intervening one-hundred twenty (120) day interim period. This provision shall not be construed to require double recording of documents at the Office of Recorder of Deeds, in and for Sussex County.)~~

Comment [ST14]: If the 120 days pass, I could see there being the need to explore beyond whether there was fraud or misrepresentation.

(n) All territories proposed to be annexed including those territories ~~as defined by Delaware Code Title 22 as~~ exempt from taxation, or which are not assessed on the books on the Board of Assessment of Sussex County, shall also be required to follow all the processes and procedures required for annexation under this Section. ~~s to the Town of Millville, t~~The ~~Mayor and~~ Town Council and the Millville Planning and Zoning Commission must proceed in the same manner as required of any annexation petition.

~~**(1)** Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written Report containing its findings and conclusions to the Mayor and the Town Council of Millville. The Report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millville and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed~~

~~annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving a report, a Resolution shall then be passed by the Town Council proposing to the property owners and residents of both The Town of Millville and the territory proposed to be annexed that the Town proposes to annex certain territory contiguous to its then limits and territory. The Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution proposing annexation to the property owners and residents shall require the affirmative vote of two-thirds (2/3) of all the members of the Town Council. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the members of the Town Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the Resolution failed to receive the required affirmative vote. The Resolution adopted by the Town Council setting forth the above information shall be printed in a newspaper having a general circulation in The Town of Millville at least one (1) week prior to the date set for the public hearing, or, at the discretion of the Town Council, the said Resolution shall be posted in four (4) public places both in The Town of Millville and in the territory proposed to be annexed.~~

~~**(2)** Following the public hearing, but in no event later than thirty (30) days thereafter, a Resolution shall then be passed by a majority of the Town Council ordering a Special Election to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. Passage of this Resolution shall ipso facto be considered the determination of the Town Council to proceed with the matter of the proposed annexation.~~

~~**(3)** The notice of the time and place of said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in The Town of Millville, or, in the discretion of the Town Council, the said notice may be posted in four (4) public places, both in The Town of Millville and in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the said Special Election.~~

~~**(4)** At the Special Election, every property owner, whether an individual, partnership, a corporation or other entity, both in The Town of Millville and in the territory proposed to be annexed shall have one (1) vote. Every resident of either The~~

~~Town of Millville or of the territory proposed to be annexed over the age of eighteen (18) years who is not a property owner shall have one (1) vote. In the case of property owned by more than one (1) person, firm, corporation or other entity or any combination thereof whether as tenants in common, joint tenants, or as tenants by the entireties, each such joint owner shall have one (1) vote. In the event that a person owns property or has an ownership interest in property both in The Town of Millville and in the territory proposed to be annexed and resides in either place, he may vote only where he resides. In the event that a person owns property both in The Town of Millville and in the territory proposed to be annexed but does not reside in either place, he may vote only in The Town of Millville and not in the territory proposed to be annexed. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of The Town of Millville in the case of property owners and residents of the Town and the books and records of the Board of Assessment of Sussex County in the case of property owners and residents of the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and residents to vote at the Special Election.~~

~~**(5)** In the event that an individual holds an unrevoked Power of Attorney duly executed specifically authorizing the said individual to vote at the said Special Election, an executed copy of the Power of Attorney shall be filed in the Office of The Town of Millville. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election.~~

~~**(6)** The Town Council of The Town of Millville shall cause voting machines to be used in the Special Election, the form of ballot to be printed as follows:~~

~~[ ] For the proposed annexation~~

~~[ ] Against the proposed annexation.~~

~~**(7)** The Mayor of The Town of Millville shall appoint three (3) persons to act as a Board of Special Election, at least one (1) of whom shall own property in The Town of Millville and at least one (1) of whom shall own property in the property proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in a public place as designated by the Resolution calling the Special Election. The Board of Special Election shall have available, clearly marked, two (2) voting machines. All votes cast by those persons, partnerships, corporations or other entities authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, corporations or other entities who are authorized to vote as residents~~

~~or property owners of The Town of Millville shall be accomplished on the other such voting machine. The polling place shall be open from one o'clock in the afternoon, prevailing time until five o'clock in the afternoon, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.~~

~~**(8)** Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the Town Council of The Town of Millville. Said Certificate shall be filed with the papers of the Town Council.~~

~~**(9)** In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from The Town of Millville and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one (1) year from the date of said Special Election. If a favorable vote for annexation shall have been cast, the Town Council of The Town of Millville shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be a part of The Town of Millville from the time of recordation. The failure to record the description or the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.~~

~~**(c)** If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books of the Board of Assessment of Sussex County, no election shall be necessary and the Town Council of The Town of Millville may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation if such property is owned by a corporation or by a written Petition with the signature of each such Petitioner duly acknowledged if such property is owned by an individual, requesting the Town Council to annex that certain territory in~~

~~which they own property or, in the alternative, by Resolution of the Town Council proposing that such property be annexed. The certified copy of the property owner's Resolution, the Petition or Resolution of Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of the Town of Millville shall appoint a committee composed of not less than three (3) of the members of the Town Council to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Millville. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millville and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Millville may then pass a Resolution annexing such territory to The Town of Millville. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the members of the Town Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution shall be passed by three-fourths (3/4) of all the members of the Town Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of The Town of Millville shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of The Town of Millville from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.~~

Section 4 **STRUCTURE OF GOVERNMENT**

The government of The Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in the Town Council. The Town Council shall be composed of five (5) members, each of whose terms shall be for a period of two (2) years, commencing at the Annual Meeting of the Town Council following his or her election and

continuing until his or her successor is duly elected and qualified. One of the members of the Town Council shall be elected Mayor of the Town Council, pursuant to Section 8, Item B, and upon his or her election shall have the title of Mayor of The Town of Millville and shall perform all duties prescribed herein to be performed by the Mayor of The Town of Millville.;

Comment [ST15]: There was some prior mention of considering a separate Mayoral election. If that is still under consideration, Ocean View's or Milton's charter would be an example. We would have to build in a transition, but that can be done.

Comment [MA16]: 2/18/21: an individual brought up the having a mayoral election, but they have not directed the committee to follow through and the committee is not in favor of such a process

Section 5 **QUALIFICATIONS FOR TOWN COUNCIL MEMBER**

(a) The qualifications for Town Council member at the time of his or her election shall be as follows:

(1~~a~~) ~~A bona fide resident of the United States and of the State of Delaware and a resident of The Town of Millville for at least ninety (90) days next preceding the Annual Municipal Election; and~~ A Citizen of the United States of America, and bona fide resident of the Town of Millville for the period of at least ninety (90) days preceding the next Annual Municipal Election;

Comment [ST17]: DE law equates "bona fide residence" to domicile, which is a dwelling place with the intention to make that place the resident's permanent home. A "primary" resident means the person can have more than one residence but this is the one residence used to the greatest degree.

(2~~b~~) At least twenty-one (21) years of age on or before the date of the election; (80 Del. Laws, c. 267, 06/22/16)

(3~~c~~) ~~Each of the qualifications for Town Council member shall be continuing qualifications to hold office and the failure of any of the Town Council members to have any of the qualifications required by this Section during his or her term of office shall create a vacancy in that Office.~~ Non-delinquent in taxes, utilities, or any debt to the Town;

(4~~d~~) Has not been convicted of a felony; and

(5e) Had not been adjudged mentally incompetent.~~;~~

(b~~f~~) Each of the qualifications for Town Council members shall be continuing qualifications to hold office and the failure of any of the Town Council members to have any of the qualifications required by the Section during his or her term of office shall create a vacancy in the Office.~~; and~~

(c~~g~~) Prior to~~After~~ appointment or election to Council, the official must submit an Ethics Form.

Section 6 **METHOD OF MAKING NOMINATIONS FOR TOWN COUNCIL MEMBER**

~~Each candidate for Town Council member shall be nominated as follows:~~

At a minimum, Title 15 of the Delaware Code shall be followed~~ by section~~ where applicable. However, certain~~some~~ items in this Section~~listed here may~~ exceed those~~that~~ requirements and are to be followed~~, which is permissible~~. Each candidate for Town Council shall be nominated as follows:

(a) ~~Each candidate shall notify the Mayor in writing of his or her candidacy for the office of Town Council member.~~ Each candidate shall notify the Town Manager or designee in writing of their candidacy for the office of Town Council Member. At that time the candidate shall fill out and file with the Town Manager or designee, the Ethics Form in Appendix B of this Charter.

(b) ~~All such notifications of candidacy must be filed in the Town Office during the regular business hours of the Town on or before the close of business on the first Friday in the month of February; and thereupon it shall be the duty of the Mayor to have a list of all candidates so filed with him printed in a newspaper of general circulation in the Town of Millville at least fifteen (15) days prior to the date of the said Annual Municipal Election next ensuing; and, in the discretion of the Town Council, the Secretary may post a list of names of all candidates designating the office sought by each candidate in at least five (5) public places in the Town, such public places to be designated by the Town Council. One of the said public places shall be in or outside the Town Hall of The Town of Millville.~~ All such notifications of candidacy, consent to the required background check, and the completed Ethics Form, along with the Certificate of Intention or a Statement of Organization, must be filed with the Town Manager or designee during the regular business hours of the Town on or before the close of business on the first Friday in the month of February; and thereupon it shall be the duty of the Town Manager or designee to have a list of all candidates so filed~~ with him/her~~ printed in at least one (1) newspaper of general circulation in the Town of Millville at least fifteen (15) days prior to the date of the said Annual Municipal Election next ensuing; and, in the discretion of the Town Council, the Secretary may post a list of names of all candidates designating the office sought by each candidate in at least five (5) public places in the Town and on the Millville Town website. One of the public places shall be in or outside the Town Hall of the Town of Millville.

(c) ~~In the event that the Mayor is unable to act because of illness, absence, or for any other reason whatsoever, the names of all candidates shall be filed with the Deputy Mayor of the Town Council who shall thereupon perform the duties required of the Mayor in Subsection **(b)** of this Section.~~ The Town Manager or designee shall submit the names of Candidates for each office up for election to the Sussex County

Department of Elections no later than one (1) business day following the deadlines for the elected positions.

~~**(d)** The Town Council shall make arrangements for voting machines to be placed in the polling place prior to the time set forth in this Charter for the beginning of the Annual Municipal Election.~~

Section 7 **MANNER OF HOLDING ANNUAL MUNICIPAL ELECTION**

The procedure for holding the Annual Municipal Election shall be as follows:

(a) The Annual Municipal Election shall be held at a place designated by the Town Council within the corporate limits of The Town of Millville on the First Saturday in March of each and every year from eleven (11) o'clock in the morning, prevailing time, until ~~4:30~~8 p.m., prevailing time~~, the first said Annual Municipal Election to be held pursuant to this Charter to be held on the First Saturday in March, A.D. 2001~~. (80 Del. Laws, c. 267, 06/22/16)

(b) ~~**(d)**~~ The Town ~~Council~~Manager or designee ~~shall~~may make arrangements with the Sussex County Department of Elections for voting machines to be placed in the polling place prior to the time set forth in this Charter for the beginning of the Annual Municipal Election.

(~~b~~c) ~~The three present Commissioners elected or appointed to serve shall continue to serve as members of the Town Council of the Town of Millville for a term of one year until their successors are duly elected or appointed at the annual election held on the First Saturday in March, A.D. 2001. The Assessor and Treasurer elected or appointed to serve shall become members of the Town Council of the Town of Millville to complete a term of one year until their successors are duly elected or appointed at the annual election held on first Saturday in March, A.D. 2001. In the first annual election, to be held on the First Saturday in March, A.D. 2001, three Council members will be elected for terms of two years each and two Council members will be elected for terms of one year each. Thereafter, three~~ Three Council members will be elected in odd numbered years and two in even numbered years.

(~~c~~d) The Annual Municipal Election shall be conducted by a Board of Election consisting of an Inspector and two (2) Judges appointed by the Mayor of the Town of Millville with the concurrence of a majority of the members of the Town Council present and voting not later than the last regular meeting of the Town Council prior to the date of

Comment [MA18]: We already do this but it would be in the Charter. I omitted the previous language because the Mayor isn't really involved in the process.

Comment [ST19]: Makes sense.

Comment [MA20]: Look into times as requested by Pat Plocek

Comment [ST21]: This transitional language is no longer needed (unless the Town goes to a Mayoral election, in which case different language for an upcoming election will be needed).

Comment [ST22]: I suggest this be discretionary, in case the county ceases to offer its voting machines.

the Annual Municipal Election. Alternate Inspectors and Judges shall also be appointed with such concurrence. The Board of Election shall determine who is and who is not lawfully entitled to vote thereat, take reasonable steps to see that the law pertaining to the Annual Municipal Election receives compliance and for the purpose of counting the votes and certifying the result to the Town Council. ~~If any of the officers so chosen and designated to conduct the Annual Municipal Election shall not be present at the polling place at the time designated for the holding of the Annual Municipal Election, it shall be lawful for the qualified voters present at the polling place at the time of holding said Annual Municipal Election to elect from among their own number a person to fill each vacancy on~~ [1]~~such Board of Election caused by the absence of any member of the Board of Election.~~ The Board of Election shall keep a list of all persons who voted at such Annual Municipal Election.

[1]

Editor's Note: Typo corrected; original read "...to fill each vacancy and such Board of Election...."

(~~d~~e) At such Annual Municipal Election, every person, male or female, who shall have attained the age of eighteen (18) years on the date of the said Annual Municipal Election and who shall be a ~~bona fide resident~~bona fide resident ~~-~~of the Town of Millville shall have one (1) vote.

Comment [MA23]: Which one? Primary or bonafide?

Comment [ST24]: See prior comment re qualifications for Council.

(~~e~~f) The Town Council may~~, by ordinance,~~ provide for any qualified voter to cast an absentee ballot ~~if such person is unable to appear and cast his or her ballot~~.

(~~f~~g) In the event that no person files or is nominated for office for which an election is to be held within the time set forth in Section 6 of this Charter, the incumbent shall be deemed to be reelected for a full term and it shall not be necessary to have an election.

(~~g~~h) In the event that only one person files or who is nominated for office for which an election is to be held within the time set forth in Section 6 of this Charter, the person who files or is nominated shall be deemed to be elected for a full term and it shall not be necessary to have an election.

Section 8 **ORGANIZATION AND ANNUAL MEETING OF COUNCIL**

(a) Before entering upon the duties of their respective offices, the Council members elect shall be sworn by a Notary Public. At the first regular meeting following the Organizational Municipal Election, "the Annual Meeting", the Town Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of

office, being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid. (80 Del. Laws, c. 267, 06/22/16)

(b) At the Organizational Meeting held on the first regular meeting following the Annual Municipal Election, the Town Council shall organize and elect a Mayor and a Deputy Mayor who shall hold office for the term of 1 year or until their respective successors shall be duly qualified and elected. The person elected as Presiding Officer of the Town Council shall have the title of Mayor of The Town of Millville. The Town Council shall likewise select a Secretary and a Treasurer from its own number to serve until the first regular meeting after the next Annual Municipal Election. The Town Council may also select an Assistant Secretary and an Assistant Treasurer to serve until the first regular meeting following the next Annual Municipal Election who may or may not be from among their own number and such other officers and employees as may be determined to be necessary. (80 Del. Laws, c. 267, 06/22/16)

Section 9 **REGULAR AND SPECIAL MEETINGS**

(a) Regular Meetings. The Town Council shall meet regularly during the year. The time and place of each regular meeting shall be set by Council each year at their organizational meeting, but Council shall not hereby be prohibited from rescheduling such meetings from time to time during the year as need arises. (80 Del. Laws, c. 267, 06/22/16)

(b) Special Meeting; Waiver of Notice. Special meetings shall be called by the Town Manager upon the written request of the Mayor, or upon the written request of any four members of Council, stating the day, hour and place of the special meeting requested and the subject or subjects proposed to be considered thereat. Such notice must be deposited in the U.S. mail in the main post office in the Town at least 96 hours prior to the time set for such special meeting, provided, however, that a waiver of such notice, (written, telegraphic, or recorded telephonic message) by all members of Council prior to or immediately upon the convening of such special meeting shall make the 96-hour written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time and for any purpose named in such waiver, or the transaction of any other business at the meeting, if the waiver so states. Subject to the scope of the notice, the Town Council of the Town shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Council has at a regular meeting. (80 Del. Laws, c. 267, 06/22/16)

Section 10 **QUORUM**

A majority of the members elected to The Town Council shall constitute a quorum at any regular or special meeting regardless of any abstentions; but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by Ordinance.

Section 11 **RULES AND MINUTES OF COUNCIL**, COMMISSIONS AND BOARDS

(a) ~~The Council shall determine its own rules and order of business and shall keep a journal of its proceedings and the yeas and nays shall be taken upon the passage of every ordinance and resolution and shall be entered in the journal with the text of the ordinance or resolution.~~The Council, Commissions and Boards shall generally follow the Millville Town Council Policies and Procedures Manual ~~either Robert's Rules of Order or The Standard Code of Parliamentary Procedure, and the Town Solicitor shall serve as Parliamentarian. In addition,~~ Town Council, Commissions and Boards shall follow the Millville Town Council Policies and Procedures Manual incorporated by reference herein. ~~Council may determine the agenda, prepare agenda items and submit to the Town Manager in a timely fashion.~~ Minutes of all public Council, Commission and Board meetings shall be recorded and transcribed by the Town Clerk or designee in electronic format and hard copy. Minutes shall include who of the voting body specifically votes for and against a motion during meetings. Minutes of aforesaid meetings shall be kept at Town Hall and published on the Town's website within a reasonable amount of time. Minutes of all meetings shall be reviewed and approved at the next scheduled meeting or as soon thereafter as possible.

(b) 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:

(1) Adopt or amend an administrative code or establish, or abolish any town department, office, commission, board, ~~or~~ agency, or position;

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Grant, renew or extend a franchise;

(4) Amend or repeal any ordinances previously adopted. (80 Del. Laws, c. 267, 06/22/16)

Comment [MA25]: Added 2/6/21 per a third MBTS resident joining Council.

Comment [MA26]: Added 2/4/21

Comment [ST27]: Does the Town want to give the Commission or Board the ability to adopt its own rules? I actually think the Board of Adjustment has a set of hearing rules.

Comment [ST28]: Do you want to limit this role to Council meetings? Otherwise, I think technically, the solicitor would need to be at all of the meetings.

Comment [ST29]: It may be good to make this a more general statement, such as "…shall follow the policies and procedures adopted and made applicable by Town Council, embodied in a manual, and amended periodically."

Comment [DB30]: This has never happened.

Comment [ST31]: I think it is covered in the Council manual, so I don't know that we need it here.

Comment [MA32]: Added 2/4/21

Comment [ST33]: This subsection is set up so that the named items require the formality of an ordinance, while the unnamed items can be adopted by ordinance or resolution. The general idea is also that an ordinance is a more lasting act, while a resolution is often more of a temporary measure.

Comment [MA34]: 2/5/21 Debbie to get clarification from Seth on whether "or resolution" can be stricken

(c) Acts other than those referred to in the preceding may be done either by ordinance or by resolution. Every ordinance and resolution shall be introduced in writing. Vote on any ordinance or resolution may be by voice ~~vote or written vote~~ and the vote of each Council member on any ordinance or resolution shall be entered on the record. No ordinance or resolution shall be passed unless it shall have the affirmative vote of a majority of the members present and voting thereon, unless a supermajority is otherwise required. (80 Del. Laws, c. 267, 06/22/16)

Comment [ST35]: I wonder if it would be good to identify the ability to vote on matters that are "less" than a resolution. For example, the Council may vote to refer a matter to a committee.

Section 12 **VACANCIES**

If any vacancy shall occur in the office of Council member by death, resignation, loss of residence in The Town of Millville, refusal to serve, or otherwise, the same may be filled by a majority vote of the remaining members of the Town Council~~,~~. ~~the person or persons so chosen to fill such vacancy shall be qualified as in the case of newly elected members and shall hold office for the remainder of the unexpired term.~~ The person or person so chosen to fill such vacancy shall be qualified only after completing the Ethics Form in Appendix B of this Charter, and the appointed member shall hold office until the end of fixed term of the vacated Town Council seat. Any person appointed to a vacancy must meet the requirements as stated in Section 5, Item G.

Comment [MA36]: If this is added to Section 5, it can be omitted from this section.

Comment [ST37]: Agreed.

Section 13 **DISQUALIFICATIONS, ~~AND~~ FORFEITURE OR CENSURE**

(a) If any Council member, during his or her term of office, shall be found guilty of any crime or misdemeanor and sentenced to imprisonment for any term whatever or shall for any reason cease to be a resident of the Town, he or she shall forthwith be disqualified to act as a member of Council and his or her office shall be deemed vacant and shall be filled by the Town Council, as aforesaid.

(b) Forfeiture Proceedings. A forfeiture of his or her office shall occur when that Council member:

(1) Lacks, at any time during his or her term of office, any qualification for the office prescribed by this Charter or by law;

(2) Willfully violates any express prohibition of this Charter;

(3) Is convicted of a felony; or

(4) Fails to attend 3 regular Council meetings without being excused by Council. (80 Del. Laws, c. 267, 06/22/16)

(c) Determination Concerning Forfeiture. Where the conditions set forth in Section 13(b)(3) or (4) occur, forfeiture shall be automatic. Where the conditions set forth in Section 13(b)(1) or (2) are alleged to have occurred, a determination concerning such alleged forfeiture shall be made by the Council, but the affected party shall not have a vote in any such decision. Such deliberations may be had in executive session and if the Council determines by a unanimous vote of the Council members entitled to vote on the question, that a forfeiture has occurred, it shall, within 48 hours of that determination, provide written notice thereof to the affected Council member, stating specific reasons. The affected party shall then have 10 days in which to make a written demand for a public hearing before the Council, to be held within 20 days of the written demand, at which hearing he or she may appear with the assistance of counsel and present evidence to the relevant issues. Thereafter, the Council shall hear any other relevant evidence and vote again on the question of forfeiture; and if a determination of forfeiture is again made by a unanimous vote of the Council members entitled to vote on the question, the decision shall be final. (80 Del. Laws, c. 267, 06/22/16)

(d) Failure to Request Hearing as a Bar. Failure of the affected person to make written demand for a public hearing as hereinabove stated shall be an absolute bar to his right to challenge that decision. During, or in connection with, any such proceedings, the Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done if requested in writing by the affected person. (80 Del. Laws, c. 267, 06/22/16)

(e) By a vote of the other Council members, a Council member may be censured for willfully violating the "Millville Town Council Policies & Procedures Manual," including requirements of general decorum.

Section 14 **CONTRACTS**

(a) It shall be unlawful for the ~~Mayor and~~ Town Council to make or enter into any contract in excess of Five Hundred Dollars ($500.00) for property, materials, supplies, services, work or labor, for the benefit and use of The Town of Millville with any member of the Town Council or with any partnership in which any member of the Town Council is a ~~general~~ partner, or with any corporation in which any member of the Town Council is a director or controlling stockholder or any firm or company which any member of the Town Council ~~is~~ has a pecuniar~~ily~~ interest~~ed,~~. An ethics form (appendix B) is required to be on file in Town

Comment [ST38]: This item would need to be added to subsection (c) because there would need to be a process for determination, including the mental state of willfulness. From a policy perspective, I wonder if this may be a little extreme of a remedy. Millville has not typically voted for Council, but in the future, I imagine it will more often. I could see this provision being seen as used to override the will of the voters. Would it make sense to provide a lesser mechanism, such as censure?

Comment [MA39]: DB mentioned at 10/1 mtg contacting Seth RE: language added about the Town not having to pick the lowest bid.

Also, Pat requested language on excluding emergency contracts to incorporate in this section.

Hall for each elected and/or appointed official and kept up-to-date and current at all times by such incumbents. These forms shall be examined with reference to a bid or contract, to assure full disclosure and compliance with best ethical practice and standards. This procedure is to reveal actual or implied potential conflicts of interest. Once this examination is completed and the ~~Mayor and~~ Town Council members are apprised of any actual or implied potential conflicts of interest, ~~provided that~~ if all the elected members of the ~~Mayor and~~ Town Council shall vote to enter into such contract, then the Town may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void. All contracts (under Section 14(a)) entered into for less than Five Hundred Dollars ($500.00) shall be reported to the ~~Mayor and~~ Town Council at the next Town Council meeting.

(b) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by competitive bidding and the awarding of contracts to the lowest responsible bidder who submits a responsive bid; PROVIDED, HOWEVER, that competitive bidding shall not be required, but may be used, in any of the following circumstances:

(1) The aggregate amount involved is not more than Ten Thousand Dollars ($10,000.00) in a fiscal year, unless competitive bid is otherwise required by the terms of a grant or subsidy or for any other reason;

(2) The purchase or contract is for personal or professional services. For purposes of this section, personal or professional services shall include legal, accounting, engineering, planning or other professional services and personal services shall mean cleaning, domestic or other temporary services;~~;~~

(3) The purchase or contract is for any service rendered by a university, college or other educational institution;

(4) The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision;

(5) The purchase or contract is for property or services for which it is impracticable to obtain competition;

(6) The public exigency, as determined by the Town Council, will not permit the delay incident to advertising;

(7) The materials to be purchased are to be used to complete a project under the supervision of the ~~Mayor~~Town Manager or designee;

Comment [DB40]: Not sure where Pat got this info unless Milton. I didn't see a form in his packet.

Comment [ST41]: I agree that a key purpose for the ethics form is to disclosure in advance financial interests that could trigger this subsection.

Comment [DB42]: Seth…. I think you wanted to add to this section?

Comment [ST43]: There was an instance a couple years ago that would have squarely fit under the state procurement item that you added.

Comment [MA44]: Per DB, projects should not be under the supervision of any councilmember.

Comment [ST45]: This one is a little odd, in that the Mayor's role under the Charter is not administrative to the point of supervising a project seemingly on a daily basis. Rehoboth has this but under the City Manager's supervision.

(8) The purchase or contract is for property or services for which the Town Council determines the prices received after competitive bidding are unreasonable as to all or part of the requirement or not independently reached in open competition;

(9) A public emergency as determined by the Town Council exists.

(10) The purchase is for materials or services other than professional services greater than ten thousand dollars ($10,000.00) up to twenty thousand dollars ($20,000.00) which then may be accomplished by soliciting letter quotations from not fewer than three (3) qualified responsible sources or providers.

(11) The purchase or contract is for materials, motor vehicles, vehicles, equipment of any kind, tools and other personal property which the State of Delaware has purchased or has chosen for purchase pursuant to the procedures provided by 29 Del. C. 6901 et seq. or the vendor of said personal property has a contract with the Federal General Services Administration and as a result has been placed on the G.S.A. Federal Supply Schedule.

Comment [MA46]: Per DB, she likes this language from Milton. The cited section is State Procurement.

Comment [ST47]: It covers the situation when the dollar amount might not warrant (or elicit) a full bidding process.

(c) Notwithstanding the foregoing provisions of this Section 14 and without complying with the competitive bidding procedures described in this Section 14, the Town Council of the Town of Millville may enter into any contract necessary or desired in connection with a special development district or tax increment financing district created or designated by the Town Council of the Town of Millville pursuant to Section 31(a)(45) of this Charter, except a contract in which the Town Council of the Town of Millville is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development, funding or similar type contracts between the Town Council of the Town of Millville and an owner of real property in such district when the contract is generally for the transfer by the owner to the Town of Millville of the work performed and the cost of labor or material provided by such owner for the benefit of such district. (76 Del. Laws, c. 189, 02/20/08)

Section 15 **DUTIES OF THE MAYOR**

(a) The Mayor shall preside at all ~~of the~~ Town Council meetings, and shall vote on all matters brought before the Town Council for a vote. He or she shall appoint all committees with the advice and consent of Town Council.~~, receive complaints or nuisances, and other complaints of citizens concerning violations of law and ordinances. He or she shall present a report of complaints and nuisances and violations of law and ordinances to the Town Council at the first regular meeting after receiving such complaints. He or she may require the Alderman or the Assistant Alderman, as hereinafter provided for in this Act, to proceed upon such infractions or violations of law and ordinances immediately in the event that he deems such~~

~~action to be required.~~ The Mayor shall perform such other duties and have such other powers as the Town Council shall determine not in conflict with the provisions of this Charter. The Mayor shall be empowered to act on behalf of the Town, without prior Town Council approval, only in the event of a sudden emergency requiring prompt action, in order to protect the public health, safety and welfare of the town, is inhabitants and property owners. A "sudden emergency", for purposes of this section, shall include, by way of example and not limitation, a major fire or conflagration, significant flooding or serious storm threatening significant damage, a civic 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.

~~**(b)** The Mayor, within thirty (30) days following his or her election, may appoint, by and with the advice and consent of a majority of the elected members of the Town Council, two (2) suitable persons who may or may not be qualified voters of The Town of Millville to act as Alderman and Assistant Alderman. Both the Alderman and the Assistant Alderman shall hold office until each successor shall be duly appointed and chosen.~~

Comment [MA48]: Sharon said she had an email into Seth about whether this item was needed RE: Aldermans.

Comment [ST49]: I agree with removing this. My impression is the State does not want to expand the use of Alderman Courts.

(~~c~~b) The Mayor may, for any reasonable cause, by and with the consent and upon the address of a majority of all the members of the Town Council, remove from office any person appointed by him or any of~~[1]~~ his or her predecessors. The person against whom the Council may be about to proceed shall receive five (5) days written notice thereof, accompanied by a statement of the cause alleged for the removal. The person may request a public hearing by submitting a request which must be to the Town Manager, in writing, by mail, email, or dropped off in person at Town Hall ~~and shall be accorded a full and fair hearing, if such a request is~~~~[2]~~ ~~received by the Mayor by certified mail with return receipt requested~~ within ten (10) days following the date that notice of removal is received by such person.

~~[1]~~

~~*Editor's Note: Typo corrected; original read "...by him or any or his...."*~~

~~[2]~~

~~*Editor's Note: Typo corrected; original read "...if such a request if received...."*~~

(~~d~~c) The Mayor may appoint such other committees, by r~~R~~esolution approved by the Town Council, as he or she deems necessary for the proper administration of ~~The~~ the Town of Millville. ~~or the~~The Town Council may also, by resolution, authorize the Mayor to appoint certain committees which are deemed necessary to carry out the provisions of this Charter ~~Act~~. All Resolutions shall contain the specific purpose of the Committee and the length of time such Committee may be needed. Any such Committees will be advisory in nature with no powers to enact regulations or allocate funds.

(~~e~~d) It shall be the duty of the Deputy Mayor of the Town Council, in the absence of the Mayor, to preside at all meetings of the Town Council in the event of absence of the Mayor and

perform such other duties and to have such other powers of the Mayor as are prescribed by the Charter of The Town of Millville or by any Ordinance of the Town Council.

Section 16 **SECRETARY**

(a) ~~The Secretary shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. He or she shall keep a full and complete record of all the transactions in The Town of Millville. He or she shall exercise such other duties as may be prescribed by this Charter or by Ordinance or rule of the Town Council of The Town of Millville. He or she shall file and keep in a safe place the seal of The Town of Millville and all papers and documents arising out of the proceedings of the Town Council of The Town of Millville relative to the affairs of the town. He or she shall deliver the same to his or her successor in office. He or she shall attest the seal of The Town of Millville when authorized by the Town Council and shall perform such other duties and have such other powers as may be prescribed by Ordinance.~~ The Secretary shall be selected from members of the Town Council for a one-year term.

(b) ~~All books, records and journals of The Town of Millville in the custody of the Secretary may, in the presence of the Mayor, Secretary, Assistant Secretary or any member of the Town Council of The Town of Millville, be inspected by any voter of the Town desiring legitimate information at any time, or times, as may be convenient and will not interfere with the regular routine of the business of the Town.~~In addition to any other duties prescribed by Town Council, t~~T~~he Secretary shall be responsible for recording and providing minutes for Executive Sessions. Such minutes will be circulated to members of Town Council for approval at the following meeting or as soon thereafter as possible.

(c) ~~All books, records, papers and documents in the custody of the Secretary shall be open for inspection by members of the Town Council of The Town of Millville.~~The Secretary will sign all r~~R~~esolutions and~~/or~~ o~~O~~rdinances once adopted by Town Council.

~~**(d)** Compensation, if any, of the Secretary for his or her duties, shall be determined by the Town Council.~~

Section 17 **TREASURER**

(a) ~~The Treasurer shall be the custodian of all the funds of the Town. He or she shall deposit, or cause to be deposited, such funds in such banking institutions as may be prescribed by the Town Council. The Treasurer, together with such other members of the Town Council, as shall be authorized by Resolution of the Town Council, shall be authorized to execute checks, but no funds shall be paid out except as authorized by the Town Council.~~The

Comment [ST50]: Does the Town want to substitute a line about the Secretary having charge over the records of the Town? The Town administration really bares responsibility for their maintenance.

Comment [ST51]: This language authorizes the Council to spell out other protocols, if it chooses.

Treasurer shall be responsible for reviewing all vouchers/bills scheduled for payment and shall be the second signatory on all checks.

(b) ~~The Treasurer shall keep a true, accurate and detailed account of all funds received and of all funds paid out by the Treasurer. The Treasurer shall preserve all vouchers for moneys paid out and the books and records shall, at all times, be open to inspection by any member of the Town Council. The Treasurer shall make a report at each regular meeting of the Town Council and at such other times as may be required by the Town Council. All such report shall be a part of the minutes of the Town Council.~~ In addition to any other duties prescribed by Town Council, t~~T~~he Treasurer will meet with the Finance Director and/or Town Manager to discuss/review the fiscal year budget prior to said budget being submitted to the ~~Mayor and~~ Town Council for action.

(c) ~~The Treasurer shall file with The Town of Millville a bond with corporate surety approved by the Town Council in a sum not less than Fifty Thousand Dollars ($50,000.00), the premium for said bond to be paid by the Town Council. The bond shall be conditioned upon the faithful performance by the Treasurer of his or her duties of office and the restoration to the Town in the case of his or her death, resignation, or removal from office of all books, papers, vouchers, funds and other property of whatever kind in his or her possession belonging to The Town of Millville.~~The Treasurer shall review said budget with the Finance Director and/or Town Manager periodically during the year to discuss any financial issues that may arise during the year.

~~**(d)** Annually each year and not later than ninety (90) days prior to the beginning of the next fiscal year, the Treasurer shall prepare a rough draft of a Town Budget. From this rough draft, the Town Council shall prepare the Town Budget.~~

~~**(e)** The Treasurer shall perform such other duties relative to the finances of The Town of Millville as the Town Council may from time to time prescribe or require.~~

Section 18 **COMPENSATION**

(a) Town Council members, ~~-~~Planning and Zoning Commission members, and Board of Adjustment members ~~and staff~~ may be paid for their services any sum which may be agreed upon by the members of the ~~Mayor and~~ Town Council~~. Each Town Council member may receive compensation for service to the Town~~ as may be prescribed by ordinance or resolution. ~~Officers and employees of the Town may receive compensation for services to the Town as may be prescribed by ordinance or resolution.~~The ~~Mayor,~~ Town Council members, Planning and Zoning Commission members, and board members may also be reimbursed for

Comment [MA52]: You might want to add language such as "… unless unable to sign at which point the Mayor or Deputy Mayor may sign." This covers in case the Treasurer is incapacitated because you have that word "shall" in there.

Comment [MA53]: This is to include P&Z Commission members.

any funds expended in the operation of their duties, i.e., mileage for continuing education, off-site meetings, etc.

Section 19 **TOWN MANAGER**

(a) The ~~Mayor and~~ Town Council ~~of The Town of Millville~~ may appoint a Town Manager who shall be the Chief Administrative Officer of the Town.

(b) The ~~Mayor and~~ Town Council ~~of The Town of Millville~~ shall impose such qualifications for Town Manager as may be deemed necessary; provided, however, that no person holding the office of ~~Mayor and~~ Town Council ~~member~~ shall be chosen to be Town Manager during his or her term of office as ~~Mayor or~~ Council member with exception of item (d) below.

(c) The Town Manager shall hold office for a definite term and may be removed by ~~a majority~~two-thirds (2/3) vote of the entire Town Council of the Town of Millville, pursuant to the terms of the Town Manager's employment contract. At least thirty (30) days before such removal shall become effective, the Town Council shall, by a majority vote of all the elected members thereof, adopt a preliminary resolution stating the reasons for his ~~or~~/ her removal. The Town Manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days but not later than thirty (30) days after the filing of such request, unless the Town Council and the Town Manager agree otherwise. After such public hearing, if one be requested, and after full consideration, the Town Council, by a two-thirds (2/3) majority vote of all ~~the elected~~ members thereof, may adopt a final resolution of removal. By the preliminary resolution, the Town Council may suspend the Town Manager from duty but shall ~~pay any unpaid balance of his or her salary due at that time,~~in any case cause to be paid any unpaid balance of his/her salary for the next three (3) calendar months following the adoption of the preliminary resolution, ~~along with any other payments required under the terms of the Town Manager's employment contract~~or as negotiated in the Town Manager's contract. (79 Del. Laws, c. 192, 2-14-2014)

Comment [ST54]: I take it this is intended to mean all of the members, not just those present and voting.

Comment [MA55]: Have to change the Manager's contract.

Comment [ST56]: We can do that in April, which would be before the Charter revisions take effect.

(d) In case of the absence or disability of the Town Manager, the ~~Mayor and~~ Town Council may designate some qualified person who may be an elected or appointed official of the Town of Millville to perform the duties of such office during his or her absence or disability, in a temporary capacity not to exceed 90 days from the date of ~~his/her~~ appointment. The compensation which the acting Town Manager shall receive for the performance of his ~~or~~/ her duties shall be fixed by the Town Council ~~of the Town of Millville~~.

(e) The Town Manager shall be responsible to the Town Council of Millville for the proper administration of the affairs of the Town placed in his ~~or~~/ her charge and to that end, he/ ~~or~~ she shall have the power to make such appointment and to hire such employees at such

compensations as the ~~Mayor and~~ Town Council, by Resolution, shall determine, subject to such rules and regulations as may be adopted by the ~~Mayor and~~ Town Council. All employees shall be hired for an indefinite term and may be removed by the Town Manager at any time unless otherwise provided by resolution of Council. He ~~or~~/ she shall exercise his ~~or~~/ her sole discretion in the appointment or hiring of any such employees. The Town Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by him/her. The Town Council ~~of The Town of Millville~~ shall sit as a Board of Appeal for the protection of Town employees at those times when the majority of all the Commissioners are agreed that a review of the action of the Town Manager would be in the best interests of ~~The~~ the Town of Millville. The decision of the ~~Mayor and~~ Town Council in such case shall be final and conclusive.

(f) It is the intention of this Charter that, in the performance of his or her duties, and in the exercise of his ~~or~~/ her powers, 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 matters of expediency and efficiency in the administration of the affairs of the Town placed in his ~~or~~/ her charge. Except for purposes of inquiry, the ~~Mayor and~~ Town Council shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.

(g) It shall be the duty of the Town Manager to supervise the administration of the affairs of the Town under his ~~or~~/ her charge and to make such reports to the ~~Mayor and~~ Town Council as are required by the Town Council. He ~~or~~/ she shall make such recommendations to the Town Council concerning the affairs of the Town as may seem to him ~~or~~/ her desirable. He ~~or~~/ she shall keep the ~~Mayor and~~ Town Council advised of the financial condition and future needs of the Town. He ~~or~~/ she shall prepare and submit to the ~~Mayor and~~ Town Council at the regular~~[1]~~ monthly meeting of each and every month a true, accurate and detailed account of all the moneys collected or received by ~~him or her in the performance of his or her duties and shall promptly turn the same over to the Town Council~~the Town.
~~[1]~~
~~*Editor's Note: Typo corrected; original read "...at the regularly monthly meeting...."*~~

(h) In conjunction with the Mayor and the Town Council ~~of Millville~~, he ~~or~~/ she shall sign warrants pursuant to appropriations or resolutions theretofore made for the ~~Mayor and~~ Town Council. He ~~or~~/ she shall prepare and submit to the ~~Mayor and~~ Town Council such reports as may be required by the Town Council. He ~~or~~/ she shall perform such other duties as may be prescribed by this Charter or required of him ~~or~~/ her by Ordinance or Resolution of the Town Council.

(i) 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 vote therein.

(j) The Town Manager shall have charge and supervision of the streets, gutters, curbs, sidewalks, boardwalks, jetties, piers, parks, and other administrative affairs of the Town and all work relating thereto. He ~~or~~/-she shall have charge of and shall collect all taxes, assessments, rentals, license fees, or other charges due the Town. He ~~or~~/-she 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. He ~~or~~/-she shall pay over to the ~~Town Treasurer~~Finance Director at least monthly, as herein before provided, and oftener if[2] required by the Town Council, all moneys received or collected by him ~~or~~/-her and by any employee under his ~~or~~/-her supervision.

[2]

Editor's Note: Typo corrected; orginal read "...and oftener is required...."

(k) He or she shall keep a full and strict account of all moneys received and all disbursements made by him or her and such accounts shall, at all times, be open to inspection to the Town Council.

Comment [ST57]: Basically, the Council is entitled to see "the books", with a focus on what the TM spent.

(l) He ~~or~~/-she shall give to ~~The~~ the Town of Millville a bond, if required by the ~~Mayor and~~ Town Council, in such sum and in form with security satisfactory to the ~~Mayor and~~ Town Council for the faithful performance of the duties of his or her office and the restoration of ~~The~~ the Town of Millville, in case of his ~~or~~/-her death, resignation, or removal from office all books, papers, vouchers, money and other property of whatever kind in his or her possession belonging to the Town.

(m) 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 his or her predecessor or predecessors in 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.

(n) Upon the death, resignation, or removal from office of the Town Manager, the ~~Mayor and~~ Town Council shall appoint some suitable person, who may be an elected or appointed official of the Town of Millville, to perform the duties of the Town Manager; provided, however, such person shall not serve for a period exceeding ninety (90) days from the date of his ~~or~~/-her appointment.

Section 20 **TOWN SOLICITOR**

The ~~Mayor~~ Town Council of The Town of Millville ~~with the advice and consent of a majority of the elected members of the Town Council,~~ shall select and appoint a Town Solicitor for an indefinite term who shall be removable at the pleasure of the Town Council of The Town of Millville either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware~~, with offices in Sussex County~~. It shall be his or her duty to give legal advice to the Town Council, and all Boards and Commissions as required, and to perform other legal services as may be required by the Town Council, or the Town Manager or designee. ~~and other officers of the Town and to perform other legal services as may be required of him by the Town Council.~~

Section 21 **BOARD OF HEALTH**

(a) The Town Council may appoint a Board of Health that shall operate in compliance with the Delaware Code. ~~provide for a Board of Health.~~ If it is established, such Board shall consist of no fewer than three (3) nor more than five (5) members, at least one (1) of whom shall be a physician authorized to practice medicine in the State of Delaware. ~~the Board of Health shall consist of four (4) members, one of whom may be a practicing physician.~~ Members of the Board of Health shall serve for three (3) years or until their successors are duly appointed and qualified. Members of the Board of Health shall have their primary residence – or in the case of a medical or scientific professional, the site of their professional practice – within the town limits of the Town of Millville. The Board shall be appointed by the Mayor of The Town of Millville with the advice and consent of a majority of the elected members of the Town Council ~~at the annual meeting hereinbefore provided, and shall serve for one (1) year or until their successors are duly appointed and qualified~~. The Board of Health shall have cognizance of and interest in the life and health of the people of the Town, including oversight of air, water and land quality, and shall inform the Town Council, Town Manager or designee, of necessary measures to be taken to protect public health. The Board shall report to the Town Council in writing whatever is deemed by the Board to be potentially injurious to the health of the people of the Town and shall make recommendations to the Town Council concerning whatever may contribute to the health and sanitation of the citizens of The Town of Millville. The Board shall organize by the election of a Chairman and Secretary within ten (10) days after notice of their appointment and shall keep a record of their proceedings and acts. The ~~Secretary~~ Chairman shall be the executive officer of the Board.

~~**(b)** The Secretary of the Board may be allowed a reasonable annual compensation for his or her services, which shall be determined by the Town Council and no other compensation shall be~~

~~paid to the Secretary for his or her services as such. The Secretary may or may not be a member of the Board of Health appointed by the Mayor, but he shall be a resident of The Town of Millville.~~

(~~c~~b) The Board of Health ~~shall have the power to recommend~~may make recommendations to the Town Council regarding the adoption of ordinances relating to the health of the population of the Town or to prevent the introduction or spread of infectious or contagious diseases or nuisances, or to mitigate against environmental contamination, affecting the same and such ordinances, when adopted by the Town Council, shall extend to an area outside the Town limits for a distance of one (1) mile.

Section 22 **POLICE FORCE**

(a) The Town Council ~~may~~may, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the police force. The police force, if created, 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 Town Council may appoint a Chief of Police to recommend and hire policing staff with the Town Council approval. The police force, under the direction of the Chief of Police shall have such other duties as the ~~Mayor and~~ Town Council shall~~, from time to time,~~ prescribe. The Chief of Police ~~and the members of the police force~~ shall be subject to the direction of the Mayor and Town Manager acting ~~in~~ on behalf of the Town Council. The Chief of Police shall be charged with the establishment of Standard Operating procedures (SOP) for the Millville Police Department.

Comment [ST58]: I take it the intent is for Council to control the number and positions of staff, but not the individual hiring.

(b) Each member of the police force shall have police powers as designated in the Delaware Code ~~similar to those of constables~~ and shall be conservators of the peace throughout The Town of Millville~~,~~. ~~and they~~ They shall suppress ~~all~~ acts of violence and enforce all laws relating to the safety of persons and property. They shall ~~compel the~~ enforce~~ment of~~ all laws and ordinances enacted by the Town Council ~~of The Town~~ of Millville and all criminal and motor vehicle laws enacted by the State of Delaware. In the case of a pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of The Town of Millville.

(c) Every person sentenced to imprisonment by a court of competent jurisdiction ~~Justice of the Peace, as the case may be,~~ shall be delivered by a member of the police force to the designated correctional institution ~~located in Sussex County~~ to be there imprisoned for the term of his or her sentence.

Comment [ST59]: Technically, the juvenile detention center is in Kent, with another in NCC.

~~**(d)** In the case of an arrest at any time, the person arrested may be taken before the nearest Justice of the Peace with officers in Sussex County who shall hear and determine the charge, and who, in such case, is vested with all the authority and powers granted by this Charter. In the case of an arrest at a time when a Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Sussex County for imprisonment until such reasonable time thereafter as shall enable a Justice of the Peace to hear and determine the charge against such person.~~

~~**(e)** It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in the streets of the Town or the noisy conduct of any person in the same, and upon the view of the above or upon view of the violation of any Ordinances of the Town relating to peace and good order thereof, the police force shall have the right and power to arrest without warrant.~~

Section 23 **ANNUAL AUDIT**

~~At the annual meeting hereinbefore provided, t~~The Mayor, with the advice and consent of a majority of the elected members of the Town Council, shall retain the services of a ~~may appoint an accountant~~Delaware licensed Certified Public Accountant or Accounting Firm to ~~be the auditor of accounts of The Town of Millville~~examine the financial statements and accounts of the Town. ~~It shall be the duty of the auditor~~The selected accountant or accounting firm shall have to audit the accounts of the Town~~ and all its officers whose duty involves the collection, custody and payment of moneys to the Town~~. The auditor shall on or before the expiration of ~~ninety (90)~~ one-hundred-twenty (120) days from the end of the fiscal year annually make and deliver to the ~~Mayor and~~ Town Council and Town Manager or designee a detailed report of any and all accounts, records, and books ~~by them~~ examined and audited by them. ~~which~~ Such report under his or her hand and seal and the Executive Summary of its findings, shall be made available at Town Hall. A notice of availability shall be published in at least one (1) ~~printed in a~~ newspaper having a general circulation in the Town~~ in the issue immediately preceding the annual report~~. The auditor shall~~, in the performance of his or her duties, shall~~ have access to all records and accounts of the Town~~ offices of the Town Council and he is hereby authorized and empowered to employ such clerks as in his or her judgment may be necessary in the proper performance of his or her duties~~.

Section 24 **BOARD OF ASSESSMENT**

(a) In the event the Town creates a Board of Assessment. The Board of Assessment ~~may~~ is to be appointed by the Mayor of The Town of Millville, with the advice and consent of a majority

of the elected members of the Town Council for an indefinite term. The Board of Assessment shall consist of three (3) members, all of whom shall be over the age of twenty-one (21) years, bona fide residents of The Town of Millville and property owners ~~freeholders~~ of the Town.

(b) ~~They~~ Members of the Board of Assessment shall be sworn or affirmed by the Mayor of The Town of Millville or by a Notary Public to perform their duties with fidelity and without favor or bias. It shall be their duty to make a fair and impartial assessment of property and persons subject to taxation situate~~[1]~~ within the corporate limits of the Town and to perform such other duties and reference thereto as shall be prescribed ~~from time to time~~ by the Town Council of The Town of Millville. Compensation is to be ~~by them~~ received for the performance of their duties in the hiring of employees to assist them in the performance of their duties shall be fixed by and subject to the approval of the Town Council of The Town of Millville.

~~[1]~~

~~*Editor's Note: Typo corrected; orginal read "situtate."*~~

(c) In making such assessment, the rules and exemptions now applicable by law to the making of the assessment for Sussex County of persons and property shall be applicable insofar as consistent with the provisions of this Charter.

(d) Adoption of Sussex County ~~assessments~~**100% land and improvement values (Values)**. The Town Council may elect to use the **100% land and improvement values** ~~assessment~~ by the Sussex County Board of Assessment for all property located within the corporate limits of the Town in lieu of making its own independent valuation and assessment of such property. In such event, the **100% land and improvement** ~~assessed~~ values established by Sussex County shall be conclusive for purposes of levying town taxes, and the Town Council shall have no authority to hear appeals regarding the same. If the Town Council elects to adopt the Sussex County **Values** ~~Assessments~~, only this section and Subsection **(e)** shall have effect; ~~but~~ the Town Council has the authority to consider appeals concerning any additions to tax bills under Subsection **(e)** at any regular or special meeting.

(e) Additions to Tax Bills. Whether utilizing the Sussex County **Values** ~~assessments~~ or those prepared by the Town's own Board of Assessment, the Town Council shall annually, prior to the posting of the assessment list, by resolution, provide for the Mayor a list of any and all charges, costs or other assessments owed to the Town, which list of charges incurred shall include, but not be limited to, the following: water bond sinking funds assessments, curb and gutter assessments, water assessments, weed and grass cutting bills, trash collection bills, and past due water rents. Said amounts, when adopted and set forth by resolution of the Mayor and Council, shall be shown on the copies of the assessments posted pursuant to the provisions of Section 25 of this Chapter.

Comment [ST60]: Primary? To match election matters.

Comment [MA61]: 2/5/21: See Seth's comment on Section 5 page 11.

Comment [DB62]: Lisa Seth..... do assessment come out and use 100% total value as established by Sussex County?

Comment [ST63]: Hi Debbie, I'll defer to Lisa on the Town's internal process. The County uses 1974 as the "base year" though Chancery Court is requiring the counties to fix their disparate system with different (old) base years.

Section 25 **ASSESSMENT OF TAXES**

The Board of Assessment shall, within ninety (90) days prior to the beginning of the next fiscal year, make a just, true and impartial annual valuation or assessment of all real estate and improvements located thereon ~~located~~ and within The Town of Millville. All real estate shall be described with sufficient particularity to be identified. Real estate shall be assessed to the ~~owner or~~ owner(s) if ~~he or~~ they be known. If the ~~owner or~~ owner(s) of real estate cannot be found or ascertained, it may be assessed to "Owner Unknown." A mistake in the name of the ~~owner or~~ owner(s) or a wrong name or an assessment to "Owner Unknown," shall not affect the validity of the assessment of any municipal tax or assessment based thereon; Provided, however, the assessment shall specify the last record owner or owners thereof as the same shall appear from the records in the Office of the Recorder of Deeds, in and for Sussex County. The Board of Assessment ~~shall~~ may also make a personal assessment of all ~~male and female~~ citizens of the Town above the age of Eighteen (18) years, whether an owner of real estate or not; said personal assessment shall be determined by the Town Council and certified to the Board of Assessment. Said personal assessment ~~or per capita tax~~ shall be in addition to the assessment levied on real estate owned or assessed by any person or persons whomsoever.

(a) The Board of Assessment, after making such annual assessment, shall, at least ninety (90) days prior to the end of the fiscal year, deliver to the Town Council of The Town of Millville a list containing the names of all persons assessed and the amount of assessment against each. They shall also deliver at such time as many copies of said list as the Town Council shall direct.

(b) The annual assessment shall distinguish the real and personal assessment of each person and shall also be arranged so that the land, the improvements thereon, and the per capita assessment shall appear in separate columns or spaces. In making this assessment, the Board shall make its valuation accordingly.

(c) The real property of the several members of the Board of Assessment shall be assessed by the Town Council of The Town of Millville.

(d) Immediately upon receiving the annual assessment list from the Board of Assessment, the Town Council of The Town of Millville shall cause a full and complete copy of the same, containing the amount assessed to each taxable to be hung in a public place in The Town of Millville and there it shall remain for a period of at least ten (10) days for the information of and examination by all concerned. Appended thereto and also in five (5) or more public

places in said Town shall be posted notices advertising to all concerned that, upon a certain day mentioned therein and not earlier than ten (10) days after the date of posting of the true and correct copy of the annual assessment list and notices that, at the next regular meeting of the Town Council, the Town Council will hold a court of appeals at which time and place they shall hear appeals from the said annual assessment. The decision of the Town Council sitting as the Board of Appeals shall be final and conclusive and said Town Council shall revise and complete said assessment at this sitting. No member of the Town Council shall sit upon his or her own appeal but the same shall be heard and determined by the other councilmen.

(e) All the members of the Board of Assessment shall be present on the day fixed for hearing appeals and shall furnish to the Town Council such information and answer such questions as the Town Council may require in respect to any assessment for which an appeal has been taken. The Town Council shall have the authority to enforce the attendance of the Board of Assessment by appropriate process.

Section 26 **SUPPLEMENTAL ASSESSMENT**

(a) In addition to the annual assessment provided for in Section 25 of this Charter, the Board of Assessment may, at its option, prepare a monthly~~quarterly~~ supplemental assessment list for any of the following purposes:

(1) Adding property which was not included on the first annual assessment;

(2) Increasing or decreasing the assessed value of property which was included in the last assessment;

(3) Correcting errors on the prior annual assessment;

(4) Revising or modifying any exception from taxation applicable to property within the Town;

(5) Due to improvement to property.

Comment [MA64]: At 2/4/21 mtg., Lisa requested this be put in.

(b) The supplemental assessment list shall be prepared monthly ~~quarterly~~ by the Board of Assessment.

(c) On the date of certification of the supplemental assessment list of the Town Council by the Board of Assessment each property owner shall be liable for the payment of real estate taxes equal to the assessed value of the property multiplied by the tax rate for the then current

fiscal year applicable to the property ~~reduced by twenty-five percent (25%) when the property is listed on the second supplemental assessment list, fifty percent (50%) when the property is listed on the third supplemental assessment list and by seventy-five percent (75%) when the property is listed on the fourth supplemental assessment list and~~ the amount of such tax, together with any interest, penalty and collection charge shall be a lien for a period of ten (10) years and such lien shall have preference and priority to all other created liens on real estate or upon improvements located on land under lease as prescribed in the Charter or suffered by said property owner although such lien or liens be of a date prior to the time of the attaching of such lien for taxes.

(d) Whenever the Board of Assessment places a property on a supplemental assessment list, ~~he~~ they shall deposit notice thereof in the regular mail addressed to the owner of the property affected thereby at the address shown on the assessment list, or if the address of such owner does not appear on the assessment list, then to the person occupying the property, or if there is no apparent occupant, such notice shall be posted on the property. Such notice shall be given no later than the date on which the supplemental list on which the property appears is certified to the Town Council by the Board of Assessment. The certification by the Board of Assessment that the notice required by this Subsection was mailed or posted, as the case may be, shall be conclusive evidence that notice to the property owner was received.

(e) The Board of Assessment may ~~shall~~ publish a notice of the place or places where the supplemental assessment list may be inspected together with a notice of the time and place in the Town when the Town Council, not earlier than ten (10) days from the date of the last publication, shall sit, between the hours of one o'clock in the afternoon, prevailing time and five o'clock in the afternoon, prevailing time, to hear appeals. Such notice shall appear at least once a week for two (2) consecutive weeks in a newspaper of general circulation in the Town. The decision of the Town Council sitting as a Board of Appeals, shall be final and conclusive and the said Town Council shall revise and complete the said supplemental assessment at this sitting. Neither the Mayor nor any member of the Town Council shall sit upon his or her appeal but the same shall be held and determined by the other members of the Town Council.

(f) Pending determination of the appeal, the property owner may either pay the tax imposed by the supplemental assessment and if on appeal the assessment is reduced, the property owner shall be entitled to a refund of the taxes which he has overpaid plus interest thereon at the rate of one percent (1%) per month for each month or fraction thereof from the date of payment or the property owner may decline to pay the tax imposed by the supplemental assessment in which case, interest and penalties shall accrue at the rate of one percent (1%) per month for each month or fraction thereof that the taxes remain unpaid from the expiration

of thirty (30) days following the date of mailing or the posting of the notice, as the case may be, required by this Section.

~~**(g)** In the collection of all taxes imposed by the supplemental assessment list, the Town Clerk shall deduct four percent (4%) from the amount of taxes assessed against the real property of any property owner if the property is listed on the second supplemental assessment list, a credit of two and one-half percent (2 1/2%) if property is listed on the third supplemental assessment list, and a credit of two (2%) if the property is listed on the fourth supplemental assessment list and is paid within thirty (30) days following the date of mailing of the notice by the Board of Assessment to the owner of the property.~~

(g~~h~~) All taxes imposed by the supplemental assessment list paid more than thirty (30) days following the date that notice is mailed by the Board of Assessment to the property owner as provided for in this Section shall be delinquent.

Section 27 **TAXATION OF REAL ESTATE TRANSFERS**

(a) The ~~Mayor and~~ Town Council of the Town of Millville, in addition to all other powers conferred upon it by this Act, shall have the power and authority by ordinance or ordinances to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the ~~Mayor and~~ Town Council to be paid by the transferor or transferee upon the transfer of real property or any interest in real property situate within the corporate limits of the Town of Millville, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur; provided however, that no tax shall be levied upon an organization exempted from ad valorem real estate taxes. No tax shall be imposed on conveyances when the actual value of the property being transferred is less than $100.

(b) If the taxing power authority granted under this Section shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds, in and for Sussex County, shall not receive for record any document subject to such tax unless such stamps are affixed thereto.

(c) The ~~Mayor and~~ Town Council of the Town of Millville may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this Section.

(d) No tax levied under this Section shall exceed one and one-half percent (1 1/2%) of the sale price (including the value of any assumed mortgage or mortgages) ~~or of the fair market value of the real property so transferred~~; and provided however, that no tax shall be imposed upon

an organization which is exempted from ad valorem taxes. The provisions of Section 5401 and Section 5403, Chapter 54, Title 30, Del. C., shall be applicable to any realty transfer tax imposed pursuant to this Act.

(e) ~~The Town Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, in and for Sussex County, or such other agent as may be appointed by the Town Council and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Section.~~ The Town Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, in and for Sussex County, or such other agent as may be appointed by the Town Council and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Section.

Section 28 **LEVY OF ANNUAL TAXES & OTHER REVENUE**

(a) ~~At the last regular meeting in the fiscal year, after~~ The ~~Mayor and~~ Town Council, having revised and completed the assessment, ~~the Town Council~~ shall determine, in its best judgment and knowledge, the total amount necessary to be raised by the Town to meet the fixed and anticipated expenses and obligations of the Town~~,~~. ~~including~~ Such amounts may include ~~-~~reasonable and appropriate reserves, for the next~~then current~~ fiscal year as set forth in the Town Budget for such year and may include ~~plus~~ a reasonable amount to cover unanticipated expenses, ~~and~~ emergencies and long-term capital improvements and replacements.

(b) The ~~Mayor and~~ Town Council should then proceed to determine, in consultation with the Town Manager or designee~~in its sole discretion~~, from which sources of the authorized revenues of the Town the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect to any such source, the amount to be raised from each such source. They shall then proceed to determine, assess, fix and/or levy as follows:

(1) The rate of tax on real estate including improvements thereon per One Hundred Dollars ($100.00) ~~of the **assessed value; and/or**~~ **of Sussex County's 100% Total Value; and or**

~~**(2)** The amount of personal or per capita tax upon each citizen of the Town over the age of eighteen (18) years; and/or~~

(~~3~~2) The rate of tax upon all poles, construction, erections, wires and appliances more particularly mentioned, or intended so to be in Section 30[1] of this Charter as amended; and/or

Comment [MA65]: Per DB: Seth, we've always received the copy of deeds with stamp and TF check from a bank in Georgetown. We are now stamping the deeds and collecting the TF tax. Do I need to amend this section or do I need to have an ordinance passed to list ourselves as the agent?

Comment [ST66]: Matt, this section really does call for an ordinance designating who collects the tax.

Comment [ST67]: I don't know that this change is necessary, since it is really incorporating by reference the prior section on assessments.

Comment [ST68]: Do you want to get rid of the ability to adopt a per capita tax, aka a personal assessment?

[1]
Editor's Note: See Section 31 for correct section reference.

(~~4~~3) The several license fees to be charged for carrying on or conducting of the several businesses, professions or occupations more particularly mentioned or intended so to be in this Charter, as amended; and/or

(~~5~~4) The several rates to be charged for furnishing water service, sewer service, electric service, gas service, front footage assessment; and/or

(~~6~~5) The fees or rates to be charged in respect to any other authorized source of revenue sufficient to their judgment and estimation to realize the amount necessary, provided however~~to be raised from each such source determined by them to be used as aforesaid; PROVIDED, HOWEVER~~, that in the case of sources (3~~4~~), (4~~5~~) and (5~~6~~) ~~aforementioned may be determined~~. The ~~Mayor and~~ Town Council may, by majority vote and its discretion~~,~~ ~~fixed,~~ assess~~ed~~, ~~levied~~ levy and/or alter~~ed~~ or change~~d~~ upon other than a fiscal year basis and that any ~~regular or special~~ meeting of the ~~Mayor and~~ Town Council as the Town Council, in its own proper discretion, shall determine.

(c) ~~Immediately after the last regular meeting prior to the end of the fiscal year~~ After the day fixed for hearing tax appeals of each and every year, the ~~Mayor and~~ Town Council shall make, or cause to be made, a full, true and correct Annual Tax List showing the amount of tax levied against each taxable entity thereon from all sources ~~(1), (2) and (3)~~ above mentioned. This list shall be known as the Annual Tax List of The Town of Millville. In addition to the information contained in the annual valuation or assessment list, it shall also contain information as to the rate of tax upon real estate for each One Hundred Dollars ($100.00) of assessed valuation thereof.

~~**(d)** The Town Council shall cause to be delivered to the Treasurer a duplicate of said Annual Tax List and the Treasurer shall immediately proceed to collect the same as hereinafter provided.~~

(~~e~~d) Nothing contained in this Charter shall be construed to affect or impair in any way the validity of any tax, fee, assessment or other charge lawfully levied, assessed or due The Town ~~of Millville~~ under existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in The Town ~~of Millville created hereby~~.

Section 29 **COLLECTION OF ANNUAL TAXES AND OTHER REVENUES**

Comment [MA69]: DB said she wanted to discuss with Seth b/c we don't know the distant future of the Town & whether Town Hall will be responsible for water & sewer.

Comment [ST70]: I would retain the language. It is current basically dormant, since the town doesn't offer those utilities.

Comment [DB71]: s/b 3,4,5

(a) ~~The Treasurer, a~~As soon as the ~~Mayor and~~ Town Council ~~shall have placed in his or her hands~~have received a duplicate Annual Tax List, the Town Manager or designee shall proceed at once to collect the taxes, and other charges and fees on said duplicate list.

(b) All taxes, other charges or fees imposed ~~so levied[1] or imposed~~ by The Town of Millville in such Annual Tax List, or as levied or imposed pursuant to Section 28 of this Charter shall be and constitute a lien upon all the real estate within the Town of Millville owned by the taxable person or entity ~~of the taxable~~ for a period of ten (10) years. The lien shall be applied to any such real estate within the Town of Millville owned by that taxable person or entity at any time after taxes, fees or charges are imposed. ~~against or upon whom such taxes are laid or imposed, of which such taxable was seized or possessed at any time after such taxes shall have been levied and imposed that is situate within The Town of Millville.~~ Such lien shall have preference and priority to all other liens on such real estate, as aforesaid, even if ~~created or suffered by the said taxable, although~~ such other lien or liens ~~be of~~ at a time and date prior to the time of the attaching of such lien of taxes, charges or fees due to the Town of Millville. ~~[1]~~

~~*Editor's Note: Typo corrected; orginal read "laid."*~~

(c) All taxes, charges or fees, when and as collected by the ~~Treasurer~~Town Manager or designee, shall be paid to The Town of Millville, and all taxes, charges or fees shall be due and payable at, and from the time of the delivery of the Annual Tax List to the ~~Treasurer.~~Town Manager or designee or when the charge or fee is imposed.

(d) All taxes, charges and fees shall be payable at the Town Office of The Town of Millville during the regular business hours of that office.

(e) In the collection of said taxes, all taxes paid after the expiration of ninety (90) days from the beginning of the fiscal year shall be delinquent. The Town Council shall have the power to make just allowances for delinquencies in the collection of taxes. On all taxes paid on or after the expiration of ninety (90) days next succeeding the completion of the ~~delivery of the duplicate~~ Annual tax List to the Treasurer, there shall be added interest at the rate of 0.5% per month and an additional sum of 1% per month as a penalty for each month or fraction thereof such taxes shall remain unpaid and said penalties shall be collected in the same manner as the original amount of the tax. All taxes unpaid after the expiration of ninety (90) days from the beginning of the fiscal year of The Town of Millville shall be considered delinquent. In effecting a collection of any delinquent tax the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any interest or penalty imposed thereon.

(f) At the annual meeting of the Town Council of each year, the Town Manager or designee shall account to the ~~Mayor and~~ Town Council for all taxes, charges and fees ~~and sewer~~

Comment [MA72]: Ask Seth. We don't give the list to the Treasurer.

Comment [MA73]: DB has to consult with Seth as Lisa said this is very different from Milton's and the Town doesn't give a list to the Treasurer.

~~rentals~~ collected by him or her during the prior fiscal year and shall ~~be liable on his or her bond for failure to~~ account for any uncollected taxes, charges and fees ~~or sewer rentals~~ unless he or she can show to the satisfaction of the ~~Mayor and~~ Town Council that all remedies permitted for the collection of said taxes, charges and fees were pursued without result or, if not pursued the remedies would have been without avail.

(g) The ~~Treasurer~~Town Manager or designee, when any tax, charge or fee has become delinquent, may, in the name of The Town of Millville, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Sussex County, or in the Superior Court of the State of Delaware, in and for Sussex County, for the recovery of the unpaid tax, charge or fee, together with interest, penalty and collection charge(s), in an action of debt, and upon judgment obtained, may sue out writs of execution as in the case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas, or in the Superior Court as the case may be.

(h) However, should the ~~Treasurer~~ Town Manager or designee so elect, he or she is empowered to sell the ~~lands and tenements~~real property(ies) of the delinquent taxpayer, or the ~~lands and tenements~~real property(ies) of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure:

(1) The ~~Treasurer~~ Town Manager or designee shall present in the name of The Town of Millville to the Superior Court of the State of Delaware, in and for Sussex County, a petition in which shall be stated:

(A) The name of the taxable;

(B) The year for which the tax was levied;

(C) The rate of tax;

(D) The total amount due;

(E) The date from which interest and the penalty for nonpayment shall commence and the rate of such interest and penalty and any collection charge permitted;

(F) A reasonable, precise description of the lands and tenements proposed to be sold;

(G) A statement that the bill of said tax has been mailed to the taxable at his or her last known post office address with return receipt requested by certified mail and postage prepaid;

(H) That it has been found impractical to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the ~~Treasurer~~ Town Manager or designee and shall be verified before a Notary Public.

(2) At least ten (10) days prior to the filing of any such petition as described herein, the ~~Treasurer~~ Town Manager or designee shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at his or her last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties, collection charges, and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The ~~Treasurer~~ Town Manager or designee shall exhibit the return registry receipt to the Court by filing the same with the petition; provided, however, that if the taxpayer cannot be found, it shall be sufficient for the ~~Treasurer~~ Town Manager or designee to file with said petition the evidence that such statement has been mailed in accordance with this Subsection and has been returned.

(3) Upon the filing of the petition, the Prothonotary shall record the same in a property indexed record of the Superior Court, in and for Sussex County, and shall endorse upon the said record of said petition the following: "This petition, filed the _____ day of _____, A.D., _____, and the ~~Treasurer~~ Town Manager or designee of the Town of Millville ~~of The Town of Millville~~ is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due-" This endorsement shall be signed by the Prothonotary.

(4) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in ~~five~~ four (~~5~~4) public places in The Town of Millville, to include Town bulletin board and posting on the Town's website ~~one of said public places shall be the Town Office~~ and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The ~~handbills~~ last of these notices shall be posted and published at least ~~ten~~ fifteen (~~10~~15) days before the day fixed for the sale ~~and the newspaper advertisement shall be published at least one (1) week before the day of the sale~~.

(5) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Sussex County, at the next term thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale ~~be~~ is approved, the ~~Treasurer~~ Town Manager or designee making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent

taxpayer or his or her alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceedings.

(6) No sale shall be approved by the Superior Court if the owner ~~be~~ is ready at court to pay the taxes, penalty, collection fees and costs, and no deed shall be made until the expiration of ~~one (1) year~~ninety (90) days from the date of the sale within which time the owner, his or her heirs, executors, or assigns, shall have the power to redeem the lands on payment to the purchaser, his or her personal representatives or assigns, the costs, the amount of the purchase price, and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(7) After satisfying the tax, interest, penalties and collection charges due and the costs of expense of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, upon the refusal of the said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in ~~some~~ a bank ~~in The Town of Millville~~, either to the credit of the owner or in a manner in which the fund may be identified.

(8) In the sale of ~~lands~~ real property for payment of delinquent taxes, interest, penalties and collection charges~~s~~, the costs for filing, recording and preparation of documents shall be allowed to be deducted from the proceeds of the sale or chargeable against the owner, as the case may be~~, including but not limited to charges of the Prothonotary, The Town of Millville,~~. In addition, the costs of printing ~~and posting~~ hand bills or notices, the publication of the advertisement of sale in a~~one or more~~ newspaper~~s~~, and the auctioneer's fee shall be chargeable costs.~~and attorney's fees incurred by The Town of Millville.~~ The costs of the deed ~~will~~ shall not be chargeable as costs, but shall be paid~~[2]~~ by the purchaser of the property of the delinquent taxpayer. The total of any Delaware and municipal transfer tax shall be paid by the purchaser of said lands at the tax sale.
~~[2]~~
~~*Editor's Note: Typo corrected; orginal read "aid."*~~

(9) If the owner of any ~~lands and tenements~~real property against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(10) If any person is assessed for several parcels of ~~land and tenements~~real property in the same assessment in The Town of Millville, the total of said taxes, charges or fees may be collected from the sale of any part or portion of said ~~lands and tenements~~real property, provided that the land alienated by the delinquent taxpayer shall not be sold until other property of the taxpayer shall have been disposed of and there still remains a delinquency.

(11) In the event of death, resignation or removal from office of the ~~Treasurer~~ Town Manager or designee of The Town of Millville before the proceedings for the sale of lands shall have been completed, his or her successor in office shall succeed to all of his or her powers, rights, and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to his or her receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment, or otherwise, may refer to the Superior Court of the State of Delaware, in and for Sussex County, a petition representing the facts and praying for an order authorizing and requiring the ~~Treasurer~~ Town Manager or designee to execute and acknowledge a deed conveying to the petitioner the premises so sold or a just portion thereof; and thereupon the court may make such order touching the conveyance of the premises as shall be according to justice and equity.

Comment [MA74]: Typo? Should be Paying?

Comment [ST75]: Technically a petition has a prayer for relief, i.e., a request for relief.

(12) However, should the Town Manager or designee so elect, the Town Manager or designee is empowered to sell the real property of the delinquent taxpayer or the real property a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the ~~Mayor and~~ Town Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made part hereof by reference in the statutes made and provided, substituting the Town of Millville for Sussex County therein.

(~~12~~13) The Treasurer shall have the same right to require the aid or assistance of any person or persons in the performance of his or her duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.

(~~13~~14) In addition [3]to all of the remedies, methods and authorities for the collection of taxes, the Tax Collector shall have the same rights in the collection of taxes as the Tax Collector or Receiver of Taxes as Sussex County now has by law or may hereafter have, including the monition method for the collection of such taxes.

Comment [MA76]: L:isa said she would double-check

[3]
Editor's Note: Typo corrected; orginal read "additional."

(i) The provisions of this Section 29 shall apply to all special ad valorem taxes and special taxes levied by the Town Council of the Town of Millville pursuant to Section 31(a)(45) of this Charter, provided, that all references in this Section 29 to an Annual Tax List shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. (76 Del. Laws, c. 189, 02/20/08)

Section 30 **TOWN BUDGET**

(a) The fiscal year for The Town of Millville shall be May 1 through April 30 of each year, unless changed ~~as determined~~ by Resolution of the ~~Mayor and~~ Town Council.

(b) ~~Annually~~ ~~each~~ Each year and not later than its regular meeting of the ~~Mayor and~~ Town Council in March~~ninety (90) days~~ prior to the beginning of the next fiscal year, the ~~Treasurer~~ Town Manager and Finance Director shall prepare a rough draft of the Town Budget. From this rough draft, the ~~Mayor and~~ Town Council shall ~~not later than the regular meeting following the presentation of the rough draft~~ prepare~~d~~ of the Town Budget, containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.

(c) The budget shall contain the following information:

(1) A detailed estimate showing the expense of conducting each department and office of the Town for the ensuing fiscal year;

~~**(2)** The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof;~~

(~~3~~2) The amount of the debt of the Town, together with the schedule of maturities of Bond issues;

(~~4~~3) An itemized statement by the Town's Chart of Accounts of all other estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;

Comment [MA77]: Added by Lisa on 2/4/21

(~~5~~4) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds";

(~~6~~5) An estimate of the amount of money to be received from taxes, water rents, sewer service charges, front foot assessments, license fees and all other anticipated income of the Town from any source or sources whatsoever.

(7) This budget shall be presented at a meeting of the ~~Mayor and~~ Town Council, and not more than thirty (30) days later be presented at a public hearing for citizen comments. At the next Town Council meeting, the ~~Mayor and~~ Town Council shall vote on the adoption of the budget, which may include revisions, and said budget shall be effective on the first day of the new fiscal year.

(d) The budget document shall be presented at a meeting of the ~~Mayor and~~ Town Council, and not more than fifteen (15) days later be presented at a public hearing for citizen comments. At the next Town Council meeting, the ~~Mayor and~~ Town Council shall vote on the adoption of the budget, which may include revisions, and said budget shall be effective on the first day of the new fiscal year.

(~~d~~e) The ~~Mayor and~~ Town Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

Section 31 **ENUMERATION OF POWERS**

(a) Not by way of limitation upon the power vested in the Town Council of The Town of Millville to exercise all powers delegated by this Charter to the municipal corporation or to the Town Council 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, to be "exercised by the Town Council in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs, that is to say:

(1) To prohibit ~~prevent~~ vice, drunkenness and immorality;

(2) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;

(3) To prohibit all gaming and fraudulent devices;

(4) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, gatherings, circuses or other public performances, amusements and games;

(5) To 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 or replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, wharf, dock, sewer, drain, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb, or gutter or portion thereof within 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)** To regulate or control the observance of the Sabbath Day;~~

(~~7~~6) To establish and regulate animal pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large~~, and to authorize the destruction of the same~~;

(~~8~~7) To locate, regulate, license, restrain or require the removal of slaughter houses, wash houses, laundries, canning establishments, phosphate, fish, fertilizer and manure plants or establishments, swine pens, privies, water closets in any businesses or buildings or conditions detrimental to the public health or constituting a public nuisance or of an offensive or a noxious nature;

(~~9~~8) To enforce the removal of ice, snow or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners;

(~~10~~9) To prohibit, remove or regulate the erection of any stoop, step, platform, bay window, cellar, gate, area, descent, sign, post or any other erection or projection in, over, upon or under any street, highway, alley, lane, water course, park, lake, strand, sidewalk, crosswalk, wharf, dock, sewer, drain, aqueduct or pipeline of the Town;

(~~11~~10) To define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare of the health and capacity of eco-systems that support the natural areas within the Town;

(~~12~~11) To provide an ample supply of pure water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in or about the collection, storage, purification, conveyance, or distribution or sale of water; to regulate and prescribe for what public or private purposes the water furnished by The Town of Millville may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury, or damage to or interference with the water system or the equipment of the Town; to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the municipality itself.

(~~13~~12) To provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town; to regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plan or facilities. To furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits. In the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the Town itself.

(~~14~~13) To provide, construct, extend, maintain, manage and control the plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for lighting the streets, highways, lanes, alleys, water courses, parks, lake, strands, sidewalks, crosswalks, wharves, docks, public buildings or other public places in the Town, and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessarily proper to light the Town, and to furnish proper connections for electric current and gas to the properties of the inhabitants of the Town who may desire the same; to regulate and prescribe for what private or public purpose the current or gas furnished by the Town may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any willful or negligent injury or damage to or interference with the electric or gas system or systems of the Town; to furnish or refuse to furnish electric current or gas from the Town's system or systems, to places and properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness by the Town itself.

(~~15~~14) To fully control within the Town the drainage of all water and to that end to 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;

(~~16~~15) To 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, property protected that the general public might enjoy the use thereof.

(~~17~~16) To 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 considerations as the ~~Mayor and~~ Town Council shall deem in the best interests of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, wharves, docks and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, railroad excepting railroads or railways engaged in Interstate Commerce, 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 wharves and piers and for the purpose of vending any article or merchandise or service upon or from any vehicle upon any present and future street, highway, lane, alley, etc.; provided that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever;

(~~18~~17) To regulate and control the exercise of any license or franchise;

(~~19~~18) To direct, regulate and control the planning, rearing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and grounds of the Town and to authorize or prohibit the removal or destruction of said trees;

(~~20~~19) 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;

(~~21~~20) To provide for or regulate the numbering of houses and lots on the streets and the naming of streets and avenues;

(~~22~~21) To regulate, control or prevent the use or storage of gun powder, fireworks, tar, pitch, resin, and all other combustible materials and the use of candles, lamps, and other lights in stores, shops, stables and other places; to suppress, remove or secure any fireplace, stove, chimney, oven, broiler, or other apparatus which may be dangerous in causing fires;

(~~23~~22) For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the manner of building 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; to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material; and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22, Del. C. of 1974, and all amendments heretofore or hereafter adopted;

(~~24~~23) To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town which shall be used as a place of detention for persons convicted of violation of law or Ordinance, or for detention of persons charged with violation of law or Ordinance, for a reasonable time in cases of necessity prior to hearing and trial; provided, however, that any correctional institution or detention facility located in the State of Delaware may be used for any such purpose;~~To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town which shall be used as a place of detention for persons convicted of violation of law or Ordinance, or for detention of persons accused of violation of law or Ordinances, for a reasonable time in cases of necessity prior to hearing and trial; and to provide for the restraint, support and employment of paupers, beggars, and vagrants; provided that any correctional institution located in Sussex County may be used for any such purpose;~~

Comment [MA78]: Per Barbara's request, this is the language from Milton.

(~~25~~24) To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town;

(~~26~~25) To regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, bean shooters, and any other devices for discharging ~~missiles~~ projectiles which may cause bodily injury or injury or harm to property; and to regulate or prevent the use of fireworks, bombs and detonating works of all kinds;

(~~27~~26) To provide for the punishment of a violation of any Ordinance of the Town by fine not exceeding One Thousand Dollars ($1,000.00);

(~~28~~27) To provide for the organization and the control and government of any of the following; a fire department, an ambulance service, or emergency treatment service; to establish fire limits and to 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 not to exceed in the total during any fiscal year six percent (6%) of the total taxes levied on real estate unto any of the following individually or in

combination: volunteer fire company or companies incorporated under the laws of the State of Delaware; any volunteer fire association or associations maintaining and operating firefighting equipment and service to the Town; any volunteer ambulance or emergency treatment service company or companies incorporated under the laws of the State of Delaware; or any volunteer ambulance association or associations maintaining and operating ambulance, emergency treatment 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 ~~Mayor and~~ Town Council shall deem advisable; (80 Del. Laws, c. 267, 06/22/16)

(~~29~~28) To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of the abatement of nuisances and the like, laying out and repairing sidewalks, curbs or gutters, or other charges due the Town and to sell the same;

(~~30~~29) To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; provided, however, that the amount to be raised from this source shall not exceed in any one year the sum of more than three percent (3%) of the total assessed value of all taxable real estate and the improvements thereon; and provided further that there shall be no limitation upon the amount which may be raised from the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether hereinbefore or hereafter incurred; (78 Del. Laws, ch. 163, 08/03/11)

(~~31~~30) To levy and collect taxes upon all telephone, ~~telegraph,~~ power poles, pipelines, rail lines, or other constructions or erections of a like character, erected within the limits of the Town, together with the wire or other appliances thereto or thereon attached; expressly excepting all telephone, ~~telegraph,~~ power lines or poles and rail lines owned or operated by any railroad or railway company engaged in Interstate Commerce for any and all purposes and to this end may at any time direct the same to be included in or added to the Town assessment. In case the owner or lessee of such constructions or erections, wires or other applicants shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies provided for the collection thereof set forth in this Charter, the ~~Mayor and~~ Town Council shall have the authority to cause the same to be removed;

(~~32~~31) To license, tax and collect fees annually for any and all municipal purposes (including the cost and expense of advertising the Town) of such various amounts as the ~~Mayor and~~ 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; provided, however, that nothing contained herein shall be so construed as to make it mandatory upon any resident of the State to apply for a license in order to sell in the Town any farm produce or products grown upon a farm owned by the vendor or any member of his or her family with whom he resides;

(~~33~~32) To determine from which authorized source and in what proportion taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the Town and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness;

(~~34~~33) To provide for the collection of and disbursement of all moneys 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 this Charter;

(~~35~~34) 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 forms or kinds 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, however, that in no event shall the indebtedness of the Town for any and all purposes at any one time exceed in the aggregate twenty-five percent (25%) of the ~~appraised~~ assessed value of all real ~~estate in the Town subject to the assessment for the purpose of levying the annual tax hereinbefore mentioned~~property;

(~~36~~35) To acquire, and/or to vacate the use of lands, tenements, personalty, property, easements, rights of way, or any interest in property, either within or without the limits of the Town, by way of condemnation and eminent domain for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred upon or delegated to The Town of Millville by this Charter. Proceedings by way of condemnation in any case shall be as prescribed in Chapter 61, Title 10, Del. C.~~ of 1974, as heretofore or hereafter amended~~;

(~~37~~36) 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;

Comment [MA79]: Debbie and Lisa have to check on this. See Barbara's suggestions.

Comment [MA80]: Seth, Debbie requested referencing number thirty-three (33) of Milton's where this same language was omitted. Wants to know if Millville needs the 1974 language or not.

Comment [ST81]: No need, Matt. That relates to the year of the Delaware Code but allows for the subsequent changes via the language about amendments.

(~~38~~37) To provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge, or other amount due the Town by the performance of labor or service for the Town by any person owing the same;

(~~39~~38) To 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~~ to subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena;

(~~40~~39) To borrow money in anticipation of revenues on the full faith and credit of The Town of Millville sum or sums not exceeding Five Hundred Thousand Dollars ($500,000.00) in any one year when, in the opinion of a majority of the ~~Mayor and~~ Town Council of The Town of Millville, the needs of the Town require it. Any sum so borrowed shall be secured by promissory notes of The Town of Millville, duly authorized by Resolution adopted by the ~~Mayor and~~ Town Council of The Town of Millville, and signed by the Mayor of The Town of Millville, and attested by the Secretary of the Town Council with the corporate seal affixed, and no officer or member of the Town Council shall be liable for the payments of such notes because it is signed by them as officers of the Town and is authorized by the resolution of the Town Council; provided, however, that the total sum outstanding at any one time shall not exceed Five Hundred Thousand Dollars ($500,000.00); and provided further, that any sum of money so borrowed, as aforesaid, in any fiscal year, shall be paid from the general fund of the Town and shall be completely repaid at any time, but must be completely paid at the end of twenty (20) fiscal years following the first fiscal year when said sum or sums were borrowed, with interest thereon; and provided that such ad valorem taxes shall be levied as is necessary to pay the principal or the interest on said bonds as is required without regard to any other limitation concerning the maximum rate of taxation and such notes and the interest thereon shall be exempt from[1] all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof. (74 Del. Laws, c. 240)

[1]
Editor's Note: Typo corrected; orginal read "form."

(~~41~~40) To effect the collection of any delinquent charge the Town Council of The Town of Millville may impose a collection charge not exceeding eighteen percent (18%) of the amount of such charge and any interest or penalty imposed thereon;

(~~42~~41) [2]To impose and collect a lodging tax of no more than 3% of the rent, in addition to the amount imposed by the State, for the occupancy of any room or rooms in a hotel, motel, or tourist home which is located within the boundaries of the Town of Millville, under Chapter 61 of Title 30 of the Delaware Code. (82 Del. Laws, c. 145, 07/23/2019)

[2]

Editor's Note: Former Subsection (a)(42), which provided for the organization, control and government of an ambulance service and/or emergency treatment service, was repealed by 80 Del Laws, c. 267, 06/22/16. For current provisions, see Subsection (a)(28).

(~~43~~42) To contribute, donate or give an amount or amounts unto community organizations providing services to the community in The Town of Millville provided that such contribution, donation or gift may be made subject to such conditions and stipulations as to the sum thereof as the Town Council shall deem advisable.

(~~44~~43) To 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; and/or to contribute to the costs of operations of those volunteer fire companies and/or ambulance/paramedic companies providing services within the Town. (75 Del. Laws, c. 441, 09/07/06)

(~~45~~44) Bonds are non-recourse to the Town and shall only be paid from Tax Increment Financing (TIF) or Special Development Districts (SDD) assessments permitted by 22 Del. C. Chapters 17 and 18. These bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property and from (i) voluntary contributions by entities exempt from taxation and assessment for public purposes under 9 Del.C. § 8105, (ii) bond proceeds on deposit in debt service reserve funds and other funds established under an indenture for such bonds, (iii) proceeds of any tax or monition sales (including accrued interest and penalties) properly allocable to unpaid TIF or SDD assessments, and (iv) any interest earnings on any of the foregoing. (76 Del. Laws, c. 189, 02/20/08; 77 Del. Laws, c. 3, 02/04/09)

(46) May impose upon annexed property such terms and conditions including annexation and impact fees that are reasonably calculated to recover the cost, and that have a rational relationship to such growth, of installing, enlarging, improving or expanding public or municipal improvements, including but not limited to sewer, water, roads, parks, parking and/or police. Such terms and conditions and/or impact fees may be reflected in an Annexation Agreement negotiated and accepted by the ~~Mayor and~~ Town Council and the Applicant prior to annexation.

Comment [MA82]: Barbara requested this item (#40 from Milton's Charter) be added to Millville's.

(~~b~~a) The Town Council may adopt, alter and amend all such ordinances, regulations, resolutions and rules not contrary to the Constitution and Laws of the United States and the State of Delaware as the ~~Mayor and~~ Town Council may deem necessary to carry into effect any of the

provisions of this Charter or any federal or state law relating generally to municipal corporations or which may be deemed proper and necessary for the order, protection and good government of the town; the protection of persons and preservation of property; and the protection of the public health and welfare of the town and its inhabitants. Any ordinance relating to the public health of the town and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same shall apply not only within the corporate limits of the town but as well to all areas and persons outside the town within one (1) mile from its corporate limits.

(~~c~~b) All provisions of this Section 31 and any other Section of this Charter limiting the amounts of indebtedness to be incurred or taxes to be levied by the Town Council of the Town of Millville shall not apply to any indebtedness incurred or any special ad valorem taxes, special taxes, or ad valorem taxes levied pursuant to or in connection with Section 31(a)(45) of this Charter. (76 Del. Laws, c. 189, 02/20/08)

Section 32 **STREETS**

(a) The ~~Mayor and~~ Town Council shall have the power and authority to lay out, locate and open new streets or to widen and alter existing streets or parts thereof and to vacate or abandon streets or parts thereof, whenever the ~~Mayor and~~ Town Council shall deem it for the best interest of the Town, but only after such recommended action(s) have been presented at a meeting of the ~~Mayor and~~ Town Council, and the opportunity for public comment has been provided.

(b) In addition, ~~The~~ the procedure to be used for any of those things heretofore listed in this Section shall be as follows:

(1) Whenever five (5) or more property owners in a portion of the Town directly affected or abutting on the proposed street to be opened, laid out, changed, altered, widened, vacated or closed shall by written petition with each signature duly acknowledged request the ~~Mayor and~~ Town Council to lay out, locate, or open a new street or to widen or alter any existing street or any part thereof or to vacate or abandon a street or any part thereof, the Mayor of ~~The~~ the Town ~~of Millville~~Council shall appoint a committee composed of not less than ~~three~~ two (~~3~~2) of the elected members of the Town Council and one (1) of the Planning and Zoning Commission to investigate the possibility of changing the structure of said streets in the Town. The petition presented to the Council by the property owners

shall include a description of the property through which the proposed street shall be laid out or description of the street on which any of the other actions heretofore described shall take place and the reasons why the change in the structure of the streets of the Town should be undertaken; or the ~~Mayor and~~ Town Council, by a majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of its elected members be appointed by the ~~Mayor and~~ Town Council to investigate the possibility of changing the street structure of the Town.

(2) Not later than ninety (90) days following its appointment, the committee shall submit a report concerning its findings to the Mayor and to the Town Council. The report shall contain the advantages and disadvantages to the Town caused by the changes of the street structure and shall contain the conclusion of said committee, ~~either~~ recommending or disapproving the change of said street structure. If the report of the committee appointed by the ~~Mayor and~~ Town Council recommends changing the existing street structure of ~~The~~ the Town, ~~of Millville~~, the ~~Mayor and~~ Town Council by resolution, passed by a majority of the elected members of the ~~Mayor and~~ Town Council concurring therein, shall propose to the property owners and citizens of the Town that the ~~Mayor and~~ Town Council proposes to change the street structure by opening a new street or by doing any of those other things herein before described to the existing street structure of the Town. If the report of the committee appointed by the ~~Mayor and~~ Town Council is not in favor of changing the existing street structure, ~~of The Town of Millville,~~ the resolution proposing the change in the street structure to the property owners and citizens of ~~The~~ the Town ~~of Millville~~ shall be passed by a majority of three fourths (3/4ths) of the elected members of the Town Council. The resolution shall contain a description of the proposed change and shall affix a time and place for a public hearing on the matter of changing the street structure. The resolution adopted by the ~~Mayor and~~ Town Council shall be printed in at least one (1) newspaper having a general circulation in ~~The~~ the Town ~~of Millville or, in the discretion of the Town Council, the resolution shall~~and be posted in five (5) public places in the Town for at least ~~one~~ fifteen (~~1~~15) ~~week~~ days before the time set for the public hearing. ~~The notice shall be published at least one (1) week prior to the date set for the said public hearing.~~ The resolution shall also state the hour and place where and when the ~~Mayor and~~ Town Council shall sit to hear objections and to award ~~just and reasonable~~current market compensation to anyone who will be deprived of property by the proposed change in the existing street structure of the town.

(3) Whenever the ~~Mayor and~~ Town Council shall have determined to locate or lay out or widen any street, lane or alley and shall have affixed compensation therefor, it shall be the duty of the ~~Mayor and~~ Town Council immediately after the survey and location of said street, lane or alley, to notify by certified mail with return receipt requested and postage prepaid, the owner or owners of the real estate through or over whom such street,

lane or alley may run, of their determination to open or widen the same and to furnish a general description or location thereof; also the amount of compensation or damages allowed to ~~r~~each such property owner, and if such owner be not a resident of the Town, to notify the holder or tenant of said real estate and the owner of such property if his ~~or~~/-her address be known; that if there be no holder or tenant resident in ~~said~~ the Town, and the address of the owner be unknown, or if there is a holder or tenant and the address of the owner is unknown, the said notice may be affixed to any part of the premises. If the owner be dissatisfied with the amount of compensation or damages allowed by the Town, as aforesaid, said property owner may, within ~~ten~~ twenty (~~10~~20) days after such notice, as aforesaid, was posted or mailed appeal from written notice of assessment or compensation or damages by serving written notice by certified mail with return receipt requested and postage prepaid on the Mayor ~~of the Town~~ to the effect that he ~~or~~/-she is dissatisfied with the amount of such compensation or damages, and that it is his or her intention to make written application to one of the Judges of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of a commission to hear and determine the matter in controversy; and in order to prosecute said appeal, such owner shall, within fifteen (15) days after serving said notice upon the Mayor as aforesaid, make written application to said Judge of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of such a commission; and thereupon the said Judge shall issue an appoint a commission ~~directed to~~made up of five (5) ~~freeholders~~ property owners~~of said county~~, ~~three (3) of~~ whom shall be residents of ~~The~~ the Town of Millville, ~~and two (2) of whom shall be nonresidents of said Town,~~ requiring them to assess the damages which the owner of the real estate through or over which the said street, lane or alley shall pass or who shall have suffered damage because of any other action taken by the Town pursuant to the provisions hereof and who shall have notified the said ~~Mayor and~~ Town Council of their intention to appeal may incur by reason thereof and to make a return of their proceeding to the said Judge at the time therein appointed.

(4) The ~~freeholders~~ property owners named in such commission, being first duly sworn or affirmed, shall view the premises and may, or a majority of them, shall assess the damages, as aforesaid, and shall make return in writing of their proceedings to the said Judge who shall deliver and return to the ~~Mayor and~~ Town Council which shall be final and conclusive. The said Judge shall have the power to fill any vacancy in the commission. The amount of damages being so ascertained, the ~~Mayor and~~ Town Council may pay or tender the same to the person or persons entitled thereto within thirty (30) days after the same shall be finally ascertained or if the person or persons so entitled reside out of or are absent from the Town during the said period of thirty (30) days, then the same shall be deposited to his or her credit in the~~[1]~~ banking institution ~~as may be described by the~~ that shall be designated by the ~~Mayor and~~ Town Council, with offices in

Sussex County, Delaware, ~~which institution shall be licensed in the State of Delaware and insured by the Federal Deposit Insurance Corporation or it successor, with offices in Georgetown, Sussex County, Delaware,~~ within said time and thereupon the said property or~~[2]~~ lands may be taken or occupied for the use as aforesaid.

~~[1]~~

~~*Editor's Note: Typo corrected; orginal read "credit in the the banking…."*~~

~~[2]~~

~~*Editor's Note: Typo corrected; orginal read "…property on lands…."*~~

(5) If the ascertainment and assessment of damages by ~~the~~ those ~~freeholders~~ appointed by the Judge, as aforesaid, shall be increased, the cost of the appeal shall be paid by the Town out of any money in the hands of the ~~Treasurer~~ Town Manager or designee belonging to the Town, but if said damages shall not be increased, the cost of the appeal shall be paid by the party appealing. The said ~~freeholder~~ members of the commission shall receive and be entitled for each day's actual service or of any part of a day the sum of Five Dollars ($5.00). After the damage shall be fixed and ascertained by the ~~freeholders~~appointed residents, the ~~Mayor and~~ Town Council shall have the option to pay the damages assessed within the time aforesaid, and to proceed with the said improvements or, upon the payment of the costs of the appeal only, may abandon the proposed improvements. In the event that either party feels that the damages assessed are not just as being excessive or inadequate, an appeal may then be prosecuted at the Supreme Court of the State of Delaware.

Section 33 **SIDEWALKS, PATHS, CURBING AND PAVING**

Comment [MA83]: Pat had added Sideawalks & Paths before Curbing, but it was said in the meeting that DelDOT handles sidewalks.

Comment [ST84]: I would add sidewalks because DelDOT likely does not cover sidewalks off of non-State roads.

(a) Whenever the ~~Mayor and~~ Town Council shall have determined that any paving, graveling, curbing, or sidewalks/paths adjacent to private property shall be constructed, replaced, or repaired, or any or all of them ~~shall be done~~, the Town ~~it~~ shall cause a notice to be sent to the owner or owners along or in front of whose premises the same is to be done, particularly designating the nature and character thereof and thereupon it shall be the duty of such owner or owners to cause such ~~paving, graveling and/or curbing~~construction, repair or replacement, or any of them, to be done in conformity with said notice and according to Town specifications. In the event any owner or owners neglect to comply with said notice for the space of thirty (30) days, the ~~said Mayor and~~ Town Council may proceed to have the same done and when done, the ~~Treasurer~~ Town Manager and Finance Director shall, as soon as convenient thereafter, present to the owner or owners of such lands a bill showing expenses of such ~~paving, graveling and curbing~~construction, repair or replacement, or any of them. If such owner or owners be not resident in ~~The~~ the Town of Millville, such bills shall be sent by certified mail with postage prepaid or to such owner or owners directed to him~~,~~ /her or them at the last known address~~,~~. I~~i~~f such bill be not paid by the owner or owners of such lands within sixty (60) days after the presentation thereof, as aforesaid, the ~~Treasurer~~ Town

Manager and Finance Director ~~shall~~ may proceed to collect the same in the same manner and under the same terms and conditions as are provided for the collection of delinquent taxes.

(b) Any notice sent to one co-owner shall be notice to all owners and in the case no owners shall reside in said Town, notice served as set forth herein or posted upon the premises shall be sufficient.

(c) The provisions contained herein shall apply to any order made by the ~~Mayor and~~ Town Council in respect to any pavement, sidewalk, paths or curbing heretofore made or done which the ~~said Mayor and~~ Town Council may deem insufficient or need repairing.

Section 34 **COLLECTION OF CHARGES DUE THE TOWN**

(a) In the collection of any charges due the Town for rentals of Town facilities, water rentals, sewer service charges, electric bills, gas bills, license fees, tapping fees, front foot assessments, charges growing out of the abatement of nuisances, laying out and repairing paving, sidewalks or paths, graveling, curbing, or any of them, such charges shall become a first lien against all real estate of the delinquent property owners and/or taxpayers situate within the Town and such charges shall have preference and priority for a period of Ten (10) years from the date the charge became due and owing to all other liens on real estate created or suffered by the taxable and property owner, although such other lien or liens be of a date prior to the time for the attaching of such liens for such charges.

Comment [MA85]: Again, not sure this will be added but put it in as Pat suggested.

Comment [ST86]: Makes sense to me.

(b) The remedies available to the ~~Treasurer~~ Town Manager and Finance Director for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

Section 35 **POWER TO BORROW MONEY AND ISSUE BONDS**

(a) The Town Council may borrow money and issue bonds or certificates of indebtedness to secure the repayment thereof on the faith and credit of The Town of Millville to provide funds for the erection, extension, enlargement, purchase or the repair of any plant, machinery, appliances, or equipment for the supply, or the manufacture and distribution of electricity or gas for light, heat or power purposes; for the furnishing of water to the public, for the construction, repair and improvements of highways, streets or lanes or the paving, curbing or erection of gutters and curbs along the same; for the purchase of real estate for any municipal purpose; for the construction or repair of sewage disposal equipment; or to defray the cost or the share of the Town of the costs of any permanent municipal improvements; provided however that the borrowing of money therefor shall have been authorized for the Town Council in the manner following:

(1) The Town Council by resolution shall propose to the residents and property owners of the Town that the Town Council proposes to borrow a certain sum of money for any of the purposes above stated. The resolution shall state the amount of money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan which are deemed pertinent by the Town Council and in their possession at the time of the passage of the resolution and shall fix a time and place for a hearing on the said resolution.

(2) Notice of the time and place of the hearing on the resolution authorizing said loan shall be printed in a newspaper having a general circulation in the Town or distributed in circular form at least one week before the time set for the public hearing.

(3) Following the public hearing, a second resolution shall then be passed by the Town Council ordering a special election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing to borrow the said money, the said special election to be for the purpose of voting for or against the proposed loan. The passing of the second resolution calling a special election shall ipso facto be considered the determination of the Town Council to proceed with the matter in issue.

(4) The notice of the time and place of holding the said special election shall be printed in two (2) issues of a newspaper having a general circulation in The Town of Millville within thirty (30) days prior to the said special election or distributed in circular form at least fifteen (15) days prior to the special election, or both, at the discretion of the Town Council.

(5) At the said special election, any person who is entitled to vote in the annual Town election if it were held on that day shall be entitled to one vote. (For purposes of this section, "entitled to vote" shall include "registered to vote" if voter registration is required for the annual Town election; and in addition, every partnership, limited liability company or corporation or other entity owning property within the corporate limits of The Town of Millville shall also have one vote and the said votes may be cast either in person or by proxy.

(6) The Town Council shall cause to be prepared, printed and have available for distribution a sufficient number of ballots not less than five (5) days prior to the said special election. The special election may, at the discretion of the Town Council, be conducted by the use of voting machines or by paper ballot. The Mayor of The Town of Millville, by and with the advice and consent of the majority of the Town Council shall appoint three (3) persons to act as a Board of Special Election. The polling

places shall be opened from 1:00 in the afternoon prevailing time until 7:00 in the evening prevailing time, on the date set for the special election.

(7) The Board of Special Elections shall count the votes for and against the proposed loan and shall announce the result thereof. The Board of Special Election shall make a certificate under their Hands of the number of votes cast for and against the proposed loan and the number of void votes and shall deliver the same to the Town Council which said certificate shall be retained by the Town Council with the other papers of the Town Council.

(8) The form of the bond or certificate of indebtedness, the interest rate, the time or times of payment of interest, the classes of the bond, the time or times of maturity, and the provisions as to registration shall be determined by the Town Council after the said special election.

(9) The bonds may be sold at either public or private sale. If it is determined to sell the bonds at public sale, the bonds shall be offered for sale to the best and most responsible bidder therefor after advertisement in a manner to be prescribed by the Town Council.

(10) The Town Council shall provide in its budget and in the fixing of the rate of tax for the payment of interest on and principal of the said bonds at the maturity thereof.

(11) The faith and credit of The Town of Millville shall be deemed to be pledged for the due payment of the bonds and interest thereon issued pursuant to the provisions hereof when the same had been properly executed and delivered for value.

(b) The bonded indebtedness shall not at any time exceed in the aggregate the total sum of twenty-five (25) percent of the value of real property situate within the limits of The Town of Millville shown by the last assessment preceding the creation of the said indebtedness.

Section 36 **ACTIONS OR SUITS**

No action, suit or proceeding shall be brought or maintained against The Town of Millville for damages, either compensatory or punitive on account of any physical injury or injuries, death or injury to property by reason of the negligence, simple, gross, or willful or wanton of the said Town of Millville, or any of its departments, officers, agents, servants or employees unless the person by or on behalf of whom such claim or demand is asserted, within one (1) year from the happening of said injury or the suffering of such damages shall notify The Town of Millville 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~~ Town Manager or designee of The Town of Millville ~~by a form of mail addressed to the person to be served, requiring a signed receipt. by certified mail with return receipt requested and postage prepaid~~.

Comment [MA87]: For Seth's review.

Comment [ST88]: The Town may want to consider a monetary threshold, rather than a percentage of the assessed value total of the town.

Section 37 **COMPENDIUM**

It shall be the duty of the Town Council, at reasonable time or times, to compile the ordinances, current regulations, orders and rules of The Town of Millville. ~~The Town Council shall have a reasonable number of copies printed for the use of the officials of the Town and for public information.~~ The Town Manager or designee shall provide copies of such compilations to Town Officials, shall have copies available to the public for review at the Town Hall, and shall post it on the Town website. From time to time, upon ~~the~~ enactments of amendments to ordinances, regulations, orders and rules, ~~new ordinances, current~~[1] ~~rules and regulations, or upon the enactment of amendments to same,~~ the Town Council shall enroll the same in the minutes of the Town Council and shall update all official copies of the compilation and make them public so that the same may be readily examined. ~~keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish the Mayor of The Town of Millville copies thereof as they are enacted and therefrom may cause supplements to be compiled and printed to any compendium thereof heretofore printed as above provided.~~

~~[1]~~

~~*Editor's Note: Typo corrected; orginal read "...currents, rules and regulations...."*~~

Section 38 **REVIVAL OF POWERS AND VALIDATING SECTION**

(a) All powers conferred upon or vested in the ~~Mayor and~~ Town Council of The Town of Millville by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in The Town of Millville and/or the ~~Mayor and~~ Town Council of The Town of Millville precisely as if~~[1]~~ each of said powers was expressly set forth in this Charter.

~~[1]~~

~~*Editor's Note: Typo corrected; orginal read "...precisely as of...."*~~

(b) All ordinances adopted by ~~The Commissioners~~~~Mayor and~~ Town Council of Millville and in force at the time of approval, acceptance and going into effect of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the ~~Mayor and~~ Town Council of The Town of Millville under the provisions of this Charter.

(c) All of the acts and doings of the ~~Commissioners~~ ~~Mayor and~~ Town Council of Millville or of any official of the ~~Commissioners~~ Town of Millville which shall have been lawfully done or

performed under the provisions of any law of this State or of any ordinance of the ~~Commissioners~~ Town of Millville or under any provision of any prior Charter of the ~~Mayor and~~ Town Council of The Town of Millville, prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

(d) All taxes, assessments, license fees, penalties, fines, and forfeitures due the ~~Commissioners of Millville of The~~ Town of Millville shall be due The Town of Millville and all debts from the Town ~~or the Commissioners~~ of Millville shall remain unimpaired until paid by The Town of Millville.

(e) All powers granted by this Charter 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 ~~Commissioners~~ Town of Millville.

(f) The bonds given by or on account of any official of the ~~Commissioners~~ Town of Millville shall not be impaired or affected by the provisions of this Charter.

(g) All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter ~~be~~ are and the same are hereby repealed to the extent of any such inconsistency.

(h) If any part of this Charter shall be held to be unconstitutional or invalid by a Court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions of this Charter.

(i) This Charter shall be taken as and deemed to be a Public Act of the State of Delaware.