

**Milton****Section 1. Incorporation**

The inhabitants of the Town of Milton 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 Milton".

**Section 2. Territorial Limits**

The boundaries and limits of the Town of Milton are hereby established and declared to be as set forth in the revised Town Map dated October 3, 2016, which is included as Appendix A and of record in the Recorder of Deeds Office for Sussex County, presently existing and as hereafter amended.

The Mayor and Town Council may, at any time hereafter, cause a survey and plot to be made of the said boundaries and may cause suitable markers to be installed at corners of offset, and the said plot, when made and approved by the Mayor and Town Council, shall be recorded in the Office of the Recorder of Deeds in and for Sussex County, State of Delaware, 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.

**Section 3. Annexation of Territory**

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

- (a) Each and every property owner seeking annexation of territory contiguous to the then existing corporate limits and territory of the Town of Milton, by written Petition with the signature of each such Petitioner duly acknowledged, shall request the Mayor and Town Council to annex that certain territory in which they own property.
- (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 or annexation agreement is requiring a higher density than an R-1 a conceptual 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 Milton shall appoint a three (3) member Special Review Committee to investigate the possibility of annexation and report back to the Mayor and Town Council in no more than one-hundred twenty (120) days, unless evidence is presented that indicates 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 Special Review Committee will have been voted upon and approved by a majority of the Mayor and Town Council. The Special Review 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 expire for the expected duration of the business for which the Special Review Committee shall have been appointed.
- (d) To finalize each of the Mayor's appointments to the Special Review Committee, each appointed member must first disclose to the State Public Integrity Commission or the Town of Milton Integrity Commission, if such Commission exists within the Town, in writing, any real or potential conflicts of interest that might affect their own objective consideration of the petition request, including items that might suggest, or provide the appearance of, impropriety in their serving on the Special Review Committee for an annexation petition. This requirement is to include conflicts, or potential conflicts as to the property, the property owners, financial or associated business interests, or any other official action or activity, involving the property. This information will be in addition to filling out an Ethics Form, established by the Mayor and Town Council. Such conflicts or appearances of conflict shall not automatically disqualify potential members from serving on the Special Review Committee, but must be fully disclosed, in writing, for the consideration of the State Public Integrity Commission or Town of Milton Integrity Commission, if such Commission exists within the Town.
- (e) Upon the majority vote of the Mayor and Town Council approving each appointee to the Special Review Committee, the new Committee is to begin work immediately to prepare a written report of its findings within one-hundred twenty (120) days, unless this period is extended for due cause.

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**CHARTER OF MILTON**

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- (f) The assessment by the Special Review Committee will consider the positive and negative impacts on the capacities and qualities of the Town of Milton's town systems and services, the impact on Milton 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 majority present, 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 Milton with regard to the annexation. The Special Review Committee of the Council may utilize the staff of the Town of Milton to assist in the conduct of its one-hundred twenty (120) day investigation as to the annexation advantages and disadvantages. The report will include a listing of the advantages and disadvantages of the annexation petition. Before, or at the end of the one-hundred twenty (120) day period, the Special Review Committee will report back to the Mayor and Town Council, and include the Special Review Committee's conclusions as to the advantages and disadvantages to the Town of Milton of the annexation petition, the interest of the Town of Milton being the sole concern of the Special Review Committee. All meetings of the Special Review Committee shall be in public with notice required by FOIA act (Freedom of Information Act).
- (g) Upon receipt of the report, the Mayor and Town Council will vote to accept the report, reject the report, or refer it to the Special Review Committee to accommodate new information. If referred to the Special Review Committee, the report must be resubmitted to the Mayor and Town Council by the Special Review Committee at its next regularly scheduled meeting and a vote must then be taken. If referred to the Special Review Committee, the Mayor and Town Council must first vote to extend the due date of the report from one-hundred twenty (120) 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 to the Town of Milton, the Mayor and Town Council shall vote on the recommendation. If the Mayor and Town Council accept the report, then they shall vote to refer the petition 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 Mayor and Town Council. If the Mayor and Town Council reject the report, refer to subsection (h) of this Section.
- (h) In the event that the Special Review Committee concludes that the proposed annexation is disadvantageous to the Town of Milton, or if the Mayor and Town Council reject a report from the Special Review 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 Special Review Committee before again petitioning the Mayor and Town Council. Each and all the procedures pertaining to an annexation procedure, as provided, are again applicable and shall be repeated.
- (i) Upon receipt of the Mayor and Town Council's referral of the annexation petition to the Planning and Zoning Commission, said Commission will consider and discuss the annexation request at its next duly noticed meeting and shall review the petition and site plan (if required), including the zoning classification (s) requested by the petitioner. After not more than sixty (60) days the Planning and Zoning Commission will make its recommendation on zoning classification[s] and transmit that recommendation(s) and their comments on the annexation petition and the site plan (if required), in writing, back to the Mayor and Town Council.
- (j) 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 plan (if required) and recommendation(s) for the zoning classifications, the Mayor and Town Council 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, to hold a Town of Milton town-wide referendum on the annexation petition. The Mayor and Town Council reserve the right to add conditions to the terms of annexation, by simple majority vote, prior to their final vote on the annexation petition. If the Mayor and Town Council vote to accept the annexation petition, implementation of this decision must wait thirty (30) days, during which the citizenry of Milton have up to thirty (30) days to file a petition with the Town Manager or designee requesting that a referendum be held on the Town Council's decision to annex. This petition shall include over 10% of Milton's registered voters able to vote in a referendum, and the referendum shall be held within forty-five (45) days following the filing of the petition for referendum with the Milton Town Manager or designee.
- (k) If a referendum on a petition for annexation is to be held, the Mayor and Town Council shall instruct the Town Manager or designee of Milton to schedule a special public referendum on the annexation petition. If the Mayor and Town Council vote in favor of a referendum, the Mayor and Town Council will order that a public referendum vote be scheduled no later than forty-five (45) days thereafter, and that a Resolution for annexation

must be passed by a majority vote of the citizens of the Town of Milton who voted, and results of the referendum vote will be binding.

- (l) At this and all Special Referendum(s), every non-resident property owner, whether an individual, partnership, or a corporation, in The Town of Milton shall have one (1) vote. Resident and non-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 Milton 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 Milton 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 Special referendum. The Board of Election of the Town of Milton shall supervise any special referendums held under this provision.
- (m) The notice of the time and place of the said Special Referendum shall be printed, within fifteen (15) days immediately following the vote or petition to hold a referendum, in at least one (1) newspaper having a general circulation in the Town of Milton, and posted in four (4) public places, including the Town bulletin board and posted on the Town of Milton website, at least fifteen (15) days prior to the date set for the said Special Referendum.
- (n) 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 in the case of a Special Referendum 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 Milton 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. 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 Milton 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.)
- (o) 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 annexations to the Town of Milton, the Mayor and Town Council and the Milton Planning and Zoning Commission must proceed in the same manner as required of any annexation petition.

#### **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 Mayor and the Town Council. The term of the Mayor shall be for a period of three (3) years, commencing at the Annual Meeting as defined in Section 8.(b) following the election and continuing until a successor is duly elected and qualified. The Town Council shall be composed of six (6) members, each of whose terms shall be for a period of three (3) years, commencing at the Annual Meeting of the Town Council following their election and continuing until each successor is duly elected and qualified.

#### **Section 5. Qualification for the Mayor and Town Council**

The qualifications for the Mayor and each Town Council member at the time of this election shall be as follows:

- (a) A citizen of the United States of America, and a primary legal resident of the Town of Milton for the period of at least one year preceding the next Annual Municipal Election;
- (b) At least twenty-one (21) years of age on or before the date of the election;
- (c) Non-delinquent in taxes, utilities, or any debt to the Town;
- (d) Has not been convicted of a felony;
- (e) Had not been adjudged mentally incompetent;
- (f) Each of the qualifications for Mayor and for Town Council shall be continuing qualifications to hold office, and the failure of the Mayor or any of the Town Council members to have any of the qualifications required by this Section during their term of office shall create a vacancy in the office; and

- (g) If any Town Council member or the Mayor is found guilty of any felony, such Town Council member or the Mayor shall forthwith be disqualified to act as such officer and they shall, vacate the elected office.

**Section 6. Method of Making Nominations for Town Council Member**

At a minimum, Title 15 of the Delaware Code shall be followed in the following section where applicable. However, some items listed here may exceed that requirement, which is permissible. Each candidate for Town Council shall be nominated as follows:

- (a) Each candidate shall notify the Town Manager or designee in writing of their candidacy for the office of Mayor or Town Council. At that time the candidate shall fill out and file with the Town Manager or designee of the Town Council, the Ethics Form in Appendix B of this Charter. Candidate must also file a Certificate of Intention or a Statement of Organization no later than seven (7) days after declaring their candidacy.
- (b) 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 no less than sixty (60) days prior to the election. Thereupon it shall be the duty of the Secretary or designee to have a list of names of all candidates so filed with the Town Manager printed in at least one (1) newspaper of general circulation in the Town of Milton at least twenty (20) days prior to the date of the said Annual Municipal Election next ensuing along with posting in at least four (4) public places in the Town and on the Milton Town website.
- (c) 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.

**Section 7. Manner of Holding Annual Municipal Election**

At a minimum, Title 15 Delaware Code shall be followed in the following section where applicable. However, some items listed here may exceed that requirement, which is permissible. The procedure for holding the Annual Municipal Election for Mayor and Town Council members shall be as follows:

- (a) The Annual Municipal Election shall be held at a place designated by the Mayor and Town Council within the corporate limits of The Town of Milton on the first Saturday in March of each and every year from 8:00 a.m. (eight o'clock a.m.), prevailing time, until 6:00 p.m. (six o'clock p.m.) in the evening, prevailing time.
- (b) The Town Manager or designee 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.
- (c) When the Town of Milton elections were first established the first three years were as follows:
  - (1) At the Annual Municipal Election that was held on the first Saturday in March, A.D. 1979, two (2) Town Council members were elected. Each of the Town Council members who were elected served a term of three (3) years or until a successor had been duly elected and qualified.
  - (2) At the Annual Municipal Election that was held on the first Saturday in March, A.D. 1980, the Mayor and two (2) Council members were elected. The Mayor served for a term of two (2) years, or until a successor was duly elected and qualified. Each of the Council members so elected served for a period of three (3) years or until a successor had been duly elected and qualified.
  - (3) At the Annual Municipal Election that was held on the first Saturday in March, A.D. 1981, two (2) Town Council members served for a term of three years, were elected. Each of the Town Council members held office for a period of three (3) years or until a successor was duly elected and qualified.
- (d) Thereafter, at each Annual Municipal Election there shall be elected two (2) Town Council members who shall serve for a term of three (3) years, or until their successors have been duly elected and qualified, except at the Annual Municipal Election in the year in which the Mayor is to be elected for a term of three (3) years or until a successor is duly elected and qualified. The Mayor and all Town Council members will be elected at large.
- (e) The Annual Municipal Election shall be conducted by the Election Officers under the supervision of the Board of Elections in accordance with Title 15, Chapter 75, Subchapter IV of the Delaware Code. The Board of Elections shall consist of five (5) members and three (3) Alternates. There shall be a sufficient number of Election Officers to conduct the election. The Chief Election Officer shall be the Inspector. All members of the Board of Elections and all Election Officers shall be appointed by the Mayor with the concurrence of a majority of the members of the Town Council, no later than the last regular meeting of the Mayor and Town Council prior to the date of the Annual Municipal Election. The Election Officers present at the polling place shall determine who is and who is not lawfully entitled to vote at the Annual Municipal Election, and take steps to see that the

law pertaining to the Annual Municipal Election receives compliance and conducts the election in accordance with Subchapter IV of Chapter 75 of Title 15. The Board of Elections shall count the votes or otherwise verify or correct the unofficial results and shall certify the final result to the Mayor and Town Council in compliance with Section 7558 of the Delaware Code. If any member of the Board of Elections or any Election Officer 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, an Alternate shall. The Alternate will take no part nor have any authority unless others are not present. The Board of Elections shall keep a list of all persons who voted at such Annual Municipal Election.

- (f) Candidates shall remain no closer than fifty (50) feet from all entrances of the polling place except when casting their own vote; when the candidate has cast their vote. After voting, the candidate must immediately exit the polling place.
- (g) For challenges and challengers the town shall follow procedures outlined in Title 15 **Del.C.** §7557(d).
- (h)
  - (1) Every applicant for registration shall be a qualified voter if such applicant is all of the following:
    - (A) A United States Citizen who shall have attained the age of eighteen (18) on the day of the election next succeeding the applicant's registration;
    - (B) A bona fide primary resident of the Town for at least 30 days on the day of the election next succeeding the applicant's registration;
    - (C) Not adjudged mentally incompetent in a judicial guardianship or equivalent proceeding;
    - (D) Not incapable of voting by reason of violating § 3 or § 7 of Article V of the Constitution of Delaware;
    - (E) Not incarcerated for conviction of a felony under the laws of Delaware or any other state or local jurisdiction, the United States, or the District of Columbia.
  - (2) The Identification for registration shall be one (1) or more of the following items that individually or together show the identity and address of the person:
    - (A) A current State of Delaware drivers' license or ID Card bearing an address within the territorial limits of the Town of Milton;
    - (B) A uniformed services ID card;
    - (C) Another current photo ID issued by the State of Delaware, U.S. Government, the voter's employer, high school or higher education institution;
    - (D) A current utility bill, bank statement, credit card statement, a paycheck or pay advice, or another type of bill or statement;
    - (E) A lease or sales agreement; or
    - (F) Any other document that a person can reasonably and commonly accept as proof of identity and address.
  - (3) If voting in person on Election Day, one must provide identification in accordance with Title 15, § 7554 of the Delaware Code.
- (i) At such Annual Municipal Election every person who shall have attained the age of eighteen (18) years on the date of the Annual Municipal Election and who shall be a citizen of the United States and a bona fide primary legal resident of the Town shall have one (1) vote, provided such person is registered on the "Book of Registered Voters" of the Town of Milton. The Mayor and Town Council shall provide one (1) register to be known as the "Book of Registered Voters" which is to be kept at the office of the Town Manager or designee with an electronic back up at Town Hall. The Book of Registered Voters shall contain the following information for each registrant: The name of the registered voter, the address of the voter, the birth date of the voter, and the date of registration. No person shall be registered upon the Book of Registered Voters unless such person has acquired the required qualifications. A person shall be required to register only one time, unless removed as provided hereunder. The Book of Registered Voters shall be maintained in the office of the Town Manager or designee and shall be conclusive evidence of the right of any person to vote at the Annual Municipal Election. A person may register at the office of the Town Manager or designee during the regular business hours of such office until the close of business of such office thirty (30) days prior to the date of the Annual Municipal Election by completing such forms as may be provided by the Town. At any duly noticed meeting of the Board of Elections, the Board may sit to consider the removal of names from the Book of Registered Voters in cases where there is valid reason to believe a person is no longer a duly qualified elector, such as death or relocation outside the territorial limits. The Board of Elections shall afford the affected voter the full right to be heard at a duly noticed meeting with the right of appeal in all cases, first giving written notice, sent via certified

mail, at least 30 days prior to its meeting. (j) All votes offered at the Annual Municipal Election shall be offered in person or by absentee vote submitted in accordance with rules and procedures governing absentee ballots as set forth by Title 15, Chapter 75, Subchapter V of the Del. Code.

- (k) In the event that no person, including the incumbent, files for an office for which an election is to be held within the time set forth in Section 6 of this Charter, such office shall be considered vacant as of the date of the Annual Meeting. The Mayor with approval of the majority of the Town Council, present and voting, shall appoint a duly qualified person to fulfill such vacancy.
- (l) In the event that only one person files for an office for which an election is to be held within the time set forth in Section 6 of this Charter, the person who files shall be deemed to be elected for a full term and it shall not be necessary to have election.
- (m) If fewer persons file for the Office of Town Council member than there are positions to be filled at any Annual Municipal Election and all such persons who file are members of the Town Council, the persons who file and those members of the Town Council who did not file and whose terms expire shall be deemed to be elected for a full term. It shall not be necessary to have an election. If fewer persons file for the position of Town Council member than there are positions to be filled at any Annual Municipal Election and any such person is not a Town Council member, such person shall be deemed to be elected. It shall not be necessary to have an election. Any member of Town Council whose term expired and who did not file shall be deemed to have vacated the office which shall be filled by appointment of the Mayor and confirmed by majority vote of the Town Council, present and voting for.
- (n) In the event of a tie vote for any office, a Special Election shall be held within thirty (30) days following the Annual Municipal Election pursuant to a resolution approved by the Mayor and Town Council. At such Special Election, all persons who were eligible to vote in the Annual Municipal Election for Mayor and Town Council shall be eligible to vote in the Special Election. However, no person shall be permitted to register and vote if such person was not registered to vote in the Annual Municipal election. In the event that a regular Town Council meeting has been held and the election was held after the meeting a special meeting must be called.
- (o) For results, recounts, and contests the Town will follow procedures outlined in Title 15 **Del.C.** §7558.

### **Section 8. Organization and Annual Meeting of Council**

- (a) Before entering upon the duties of their respective offices, the Mayor Elect and the Council Member(s) Elect shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity. At the first regular meeting in April following the Annual Municipal Election, the Mayor and the Town Council shall meet at the usual meeting place of the Mayor and Town Council 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.
- (b) At the Annual Meeting, held on the first regular meeting in April following the Annual Municipal Election, the Mayor shall appoint a Vice-Mayor, a Secretary, and a Treasurer from among the members of Council who shall be confirmed by a majority vote of all the members of the Town Council present and voting. The Vice-Mayor, the Secretary and the Treasurer shall serve until the next Annual Meeting following the next Annual Municipal Election or until their successors have been duly appointed and qualified. The Mayor may also select an Assistant Secretary and an Assistant Treasurer to serve, as aforesaid, who may or may not be from among the members of the Town Council and such other officers and employees as may be determined to be necessary. All appointments shall be confirmed by a majority of vote of all the members of the Town Council present and voting. The Mayor shall be the Chair of the Town Council and shall be an ex officio-member of all committees.

### **Section 9. Regular and Special Meetings**

- (a) The Mayor and Town Council shall hold at least one (1) Meeting in each month on the first Monday of the month. If the first Monday of the month shall be a legal holiday or Council deems they are unable to meet the requirements for the first Monday of the month, the monthly meeting of the Town Council of the Town of Milton shall be held on the second Monday of the month. Additional meetings of the Mayor and Town Council may be held in the same month, scheduled on an 'as needed' basis, and notification procedures shall be the same as those for a regular meeting.
- (b) The Mayor shall be paid eighty dollars (\$80.00) for each regular meeting attended by the Mayor and shall be paid thirty dollars (\$30.00) for each additional meeting attended by the Mayor. Each member of the Town Council shall be paid sixty dollars (\$60.00) for each regular meeting attended by the Town Council Member and thirty dollars (\$30.00) for each additional meeting attended by the Town Council Member.

The Mayor and the members of the Town Council shall receive no other compensation for their services but shall receive an allowance for every mile necessarily driven in his or her private automobile, such allowance to be paid at the same rate as that assessed by the Federal rate for the serving of papers, and shall be reimbursed for expenses necessarily incurred while on the business of the Town, provided a voucher for such expenses is delivered to the Town Manager or designee.

**Section 10. Quorum**

A majority of the Mayor and all the members to the Town Council shall constitute a quorum at any meeting. If there is no quorum present, Council must adjourn, but may re-convene if a quorum is present. The Mayor and Town Council 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**

The Council shall generally follow Roberts Rules of Order, determine its agenda, and shall keep minutes of its proceedings, and the yeas and nays taken in a roll call vote shall be taken upon the passage of every ordinance and resolution, and shall be entered in the minutes with the text of the ordinance or resolution. In addition the Town Solicitor or designee shall serve as Parliamentarian during Milton Town Meetings. Furthermore, Roberts Rules of Order shall generally be followed during meetings of Milton's Town Boards and Commissions and the Solicitor or designee shall serve as Parliamentarian.

**Section 12. Vacancies**

If any vacancy shall occur in the office of Mayor or Town Council member by death, resignation, loss of residence in The Town of Milton, refusal to serve, or otherwise, the office shall be filled by a majority vote of the remaining members of the Mayor and Town Council. The person or persons 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.

**Section 13. Disqualifications**

If the Mayor or any Town Council member, during their term of office, shall for any reason cease to meet the requirements as set forth in Section 5 of this Charter, shall forthwith be disqualified to act as Mayor, or as a member of Town Council and the office shall be deemed vacant and shall be filled by the remaining members of the Mayor and Town Council, as aforesaid.

**Section 14. Contracts**

- (a) It shall be unlawful for the Mayor and Town Council to make or enter into any contract in excess of Fifty Thousand Dollars (\$50,000.00) for property, materials, supplies, services, work or labor, for the benefit and use of the Town of Milton with the Mayor or any member of the Town Council, or with any partnership in which the Mayor or any member of the Town Council is a partner, or with any corporation in which the Mayor or any member of the Town Council is a Director or controlling stockholder, or with any firm or company in which the Mayor or any member of the Town Council has a pecuniary interest. An ethics form (appendix B) is required to be on file in Town 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, if the members of the Mayor and Town Council shall vote to enter into such contract, then the Town may enter into such contract. Any such contract executed without such unanimous vote shall be absolutely null and void.
- (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 contract awarded 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 Five Thousand Dollars (\$5,000.00) 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 is for materials or services other than professional services greater than Five Thousand Dollars (\$5,000.00) 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.
- (3) The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision.
- (4) The purchase or contract is for property or services for which it is impracticable to obtain competition.
- (5) The public exigency, as determined by the Mayor and Town Council, will not permit the delay incident to advertising.
- (6) A public emergency, as determined by the Mayor and Town Council, exists.
- (7) 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.

If, at the completion of a competitive bidding process for the purchase or contracting of property or services, the Mayor and Town Council determines that the prices received after competitive bidding are unreasonable as to all or part of the requirement or not independently reached in open competition, the Mayor and Town Council shall announce this finding at its next Town Council meeting, and vote as to whether to open a new bidding process.

## **Section 15. Duties of the Mayor**

- (a) The Mayor shall be the Chair of the Town Council and shall preside at all meetings thereof, and unless otherwise provided herein shall vote on all matters brought before the Town Council for a vote. The Mayor shall appoint all committees; receive complaints of nuisances, and other complaints of citizens concerning violations of law and ordinances. The Mayor 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.
- (b) Members appointed to Boards and Commissions of the Town of Milton, including the Board of Adjustment and the Town's Planning and Zoning Commission, are appointed by the Mayor, with the advice and consent of the Town Council, but only after completing the Ethics Form in Appendix B and available for review by the Mayor and members of the Town Council for a three (3) year, fixed term of service. Members of these Boards and Commissions must be qualified electors in the Town of Milton and have their legal primary residence within the town limits in the Town of Milton. If a sitting Board or Commission member changes their primary legal residence to a location outside of the Town limits, that member shall become ineligible to serve and will be deemed to have resigned from the Board or Commission. To avoid any appearance of a conflict of interest in compliance with 29 Delaware Code, Chapter 58, Delaware Code of Conduct, Board and Commission members are required to recuse themselves from participating in discussion relating to a matter in which they might have a personal interest. As the number serving on such Boards and Commissions is fixed at a minimum of five (5) and a maximum of nine (9), new appointees may be added to a Board or Commission up to the maximum number, with the same fixed term of three (3) years from the date of appointment. The Mayor shall appoint to all Boards and Commissions a replacement to fill such vacancy as soon as practicable.
- (c) The Mayor may, with the advice and consent of a majority of the Town Council, for the proper administration of the Town of Milton, create committees and/or appoint any and all persons to such committees. The appointed members of such committees shall serve at the pleasure of Mayor and Town Council. In addition to committees, the Mayor and Town Council may create, and appoint members to: Ad Hoc Committees, working groups, and other such entities so as to engage Milton citizens in the work of administrating and serving the Town. Members of committees, ad hoc committees, working groups and other such entities shall not be required to have their primary residence within the town limits of the Town of Milton.

In the case of any appointment to committees, ad hoc committees, working groups and other such entities, each person being considered for such an appointment must first complete the Ethics Form, Appendix B and be available for review by the Mayor and members of the Town Council prior to the appointment. The Mayor, with the advice and consent of the Town Council may replace any and all appointees to any such created entities, and/or add individuals to such bodies. However, it is required that those being replaced on any such entity, be sent a letter from the Mayor thanking them for their service, and notifying them of the date upon which their services are no longer required by the Town. That letter is to be sent prior to the date stipulated as the final day of service. The Mayor and Town Council shall have the right to set sunset dates for any such committees or other entities, and/or to assign completion dates for the work of any such committees or other entities.



- (d) It shall be the duty of the Vice-Mayor, in the temporary absence of the Mayor, to preside at all meetings of the Town Council and to perform such other duties and to have such other powers of the Mayor as are prescribed by the Charter of The Town of Milton or by any Ordinance in the Town Code.

**Section 16. Secretary**

- (a) The Secretary of the Town Council shall have charge and custody of books, minutes, records, papers and other effects of the Town and shall arrange to keep and maintain the same in a safe and secure place at the Town Office. The Secretary shall ensure that a full and complete record be kept of all the transactions of The Town of Milton as may be prescribed by this Charter or by Ordinance or rules of the Mayor and Town Council. The Secretary shall file and keep in a safe at the Town Office the seal of The Town of Milton and all papers and documents arising out of the proceedings of the Mayor and Town Council relative to the affairs of the Town. The Secretary shall transfer authority of the same to the successor in office. The Secretary shall attest the seal of The Town of Milton when authorized by the Town Council and shall perform such other duties and have such other powers as may be prescribed by this Charter or by Ordinance. The Secretary shall receive no compensation for service as Secretary.
- (b) All public records of The Town of Milton as defined in 29 Delaware Code, Chapter 100 may, in the presence of the Mayor, Secretary, Assistant Secretary or any member of the Town Council, Town Manager or designee, be inspected by any Delaware citizen desiring to inspect such public records at any time, or times, as may be convenient and will not interfere with the regular routine of business of the Town.
- (c) All public records of the Town of Milton shall be open for inspection by members of the Town Council.
- (d) The duties and powers of the Secretary, as herein before prescribed, shall devolve upon the Assistant Secretary in the temporary absence or inability of the Secretary. The Assistant Secretary shall likewise perform such other duties and have such other powers as may be prescribed by resolution of the Mayor and Town Council and he/she said person shall receive no compensation for service as Assistant Secretary.

**Section 17. Treasurer**

- (a) The Treasurer of the Town Council shall have oversight responsibility as the official custodian of all the funds of the Town. The Treasurer or designees shall deposit, or cause to be deposited within one business day of receipt, such funds in such banking institutions prescribed by the Mayor and Town Council. The Treasurer or designee shall pay out no money except by check or warrant countersigned by two (2) authorized signers. The Treasurer shall receive no compensation for service as Treasurer.
- (b) The Treasurer shall assure that the Town Manager or designee keeps a true, accurate and detailed account of all monies received and of all monies paid out on behalf of the Town. The Town Manager or designee shall receive all vouchers for monies paid out by the Town Manager or designee, and their books and accounts shall, at all times, be opened to inspection to the Mayor and/or any member of the Town Council. The Treasurer shall make such financial reports at such times as the Mayor and Town Council shall direct.
- (c) The Treasurer or designee shall assure that a monthly report of the financial condition of the Town, showing receipts and expenditures, shall be submitted to the Mayor and Town Council and such report shall be opened to inspection by any resident of the Town. The Treasurer shall make an affidavit to the Treasurer's belief in the truth and correctness of such monthly report.
- (d) The Treasurer or designee shall file with the Town of Milton a bond with corporate surety approved by the Mayor and Town Council in the sum not less than Two Hundred and Fifty Thousand Dollars (\$250,000.00), the premium for said bond to be paid by the Town (The Town of Milton shall pay the premium for such a bond to be in effect, and to include, all elected or appointed officials and Town employees who have responsibilities for financial matters and/or who handle Town monies.) The bond shall be conditioned upon the faithful performance by the Treasurer of their duties of office and the restoration to the Town in case of their death, resignation or removal from office of all books, papers, vouchers, funds, and other property of whatever kind in the Treasurer's possession belonging to the Town of Milton.
- (e) The Treasurer of the Town Council shall perform such other duties relative to finances as the Mayor and Town Council may from time to time prescribe or require.
- (f) The duties and powers of the Treasurer as hereinbefore prescribed shall devolve upon the Assistant Treasurer in the temporary absence or inability of the Treasurer. The Assistant Treasurer shall likewise perform such other duties and have such other powers as may be prescribed by resolution of the Mayor and Town Council and they shall receive no compensation for service as Assistant Treasurer.

**Section 18. Town Manager**

- (a) The Town Council of the Town of Milton shall hire a Town Manager who shall have such duties as described by this Town Charter. Further, the Mayor and Town Council may contract with the Town Manager for a fixed term contract they shall find appropriate, which may be renewed by simple majority vote of the Mayor and Town Council.
- (b) The Mayor and Town Council shall establish qualifications for the Town Manager as may be deemed necessary; however, no person holding the office of Mayor or Town Council member shall hold the position of Town Manager during the term of office.
- (c) The Town Manager shall hold office for the fixed period of time stated in the contract, if one exists as approved by a simple majority vote of the Mayor and Town Council. If no contract exists the Town Manager shall be considered an "at will employee" and serve at the discretion of the Mayor and Town Council.
- (d) In the case of absence or disability of the Town Manager, the Mayor and Town Council may designate a qualified person who may be awarded a short term contract to perform the duties of such office during his or her absence or disability.
- (e) The compensation which the Town Manager shall receive for the performance of duties shall be determined by the terms of the contract or shall be fixed by the Mayor and Town Council as approved by a simple majority vote of the Mayor and Town Council.
- (f) The Town Manager shall be responsible to the Mayor and Town Council of the for the proper administration of the Town placed in the Town Manager's charge. It is the intention of this Charter that, in the performance of those duties, and in the exercise of those powers, the Town Manager shall not be influenced by any matters whatsoever of a political or factional nature. It is the intention of this Charter that the Town Manager shall be guided solely by the best and most appropriate interests of the Town and its taxpayers, and to achieve efficiencies in the administration of the affairs of the Town placed in the Town Manager's charge. Except for purpose 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 their charge and to make such reports to the Mayor and Town Council as are required by the Mayor and Town Council. The Town Manager or designee shall make such recommendations to the Mayor and Town Council concerning the affairs of the Town as may seem desirable. The Town Manager or designee shall keep the Treasurer and the Mayor and Town Council advised of the financial condition and future needs of the Town. The Town Manager, or designee shall render each and every month a true, accurate and detailed account of all the monies collected or received by the Town Manager or designee in the performance of their duties and shall provide this report to the Treasurer of the Town Council.
- (h) The Town Manager shall have all of the authority and responsibility enumerated in this Charter.
- (i) In addition, the Town Manager's responsibilities shall include:
  - (1) Maintaining the administrative organization of the Town to ensure efficiency of operation;
  - (2) Overseeing the accounting of all monies of the Town;
  - (3) Making monthly reports to the Mayor and Town Council pertaining to financial status of the Town;
  - (4) Annually preparing a draft budget and capital improvement program for the Town;
  - (5) Within 45 days of the end of the fiscal year preparing an annual report of the previous year's activities for presentation to the Mayor and Council and the citizens of Milton;
  - (6) Appointing with advise and consent of the Mayor and Town Council, all department heads of the municipal staff and supervising their performance on a day to day basis;
  - (7) Acting as personnel officer for the Town, to include hiring, evaluating, promoting, and disciplining employees and establishing procedures for others to follow in such matters;
  - (8) Recommending an annual salary schedule for the Town's employees for Mayor and Town Council consideration;
  - (9) Identifying services and policy needs of the Town and bringing them to the attention of the Mayor and Town Council with written recommendations for action;
  - (10) Maintaining a sound public information process in the Town with its citizens and the press, and other federal, state, and local governments;

- (11) Coordinating departmental activities as appropriate and setting obtainable goals for all municipal departments;
  - (12) Acting as purchasing agent for all municipal departments and overseeing the bid process on purchases, adhering to all rules for contracting and purchasing as set forth in this Charter;
  - (13) Maintaining contact with the public, and considering suggestions, complaints, and information requests;
  - (14) Carrying out the directives of the Mayor and Town Council;
  - (15) Attending all meetings of the Mayor and Town Council, preparing their agendas, providing supporting documents, and information pertinent to the agenda items;
  - (16) Attending various meetings on behalf of the Town and interacting with numerous municipal Boards, Commissions and Committees as needed;
  - (17) Preparing federal, state, and private sector grant requests and administering grant proposals, ensuring the enforcement of municipal and state codes; and
  - (18) Performing related work as required.
- (j) The Town Manager or Designee shall be entitled to a seat in the meetings of the Mayor and Town Council, but shall not vote therein.

**Section 19. Town Clerk**

- (a) The Town Manager may with the simple majority approval of the Mayor and Town Council, hire a Town Clerk who shall have such duties as shall be prescribed by the Town Manager. Further, the Mayor and Town Council may contract with the Town Clerk for a fixed term contract they shall find appropriate, which may be renewed by simple majority vote of the Mayor and Town Council. If no contract exists, the Town Clerk shall be considered an at-will employee and serve at the discretion of the Town Manager, Mayor and Town Council.
- (b) The Mayor and Town Council shall establish such qualifications for Town Clerk as may be deemed necessary; however no person holding the office of Mayor or Town Council member shall be chosen to be the Town Clerk during the term of office as Mayor or Council member.
- (c) In case of the absence or disability of the Town Clerk, the Town Manager may designate some qualified person who shall not be an elected official of the Town of Milton.
- (d) The compensation which The Town Clerk shall receive for the performance of his/her duties shall be fixed by the Town Manager with the approval of the Mayor and Town Council.
- (e) The Town Clerk shall be responsible to the Town Manager for the proper administration of the affairs of the Town placed in the Town Clerk's charge by the Town Manager.
- (f) In the performance of assigned duties, and in the exercise of the Town Clerk's powers, the Town Clerk shall not be influenced by any matters whatsoever of a political or factual nature. The Town Clerk shall be guided solely by the matters and requirements of the Town Manager, in service to the town taxpayers and to achieve efficiency in the administration of the affairs of the Town placed in the Town Clerk's charge. Except for purpose of inquiry, the Mayor and Town Council shall deal with that portion of the administrative service for which the Town Clerk is responsible through the Town Manager.
- (g) It shall be the duty of the Town Clerk to supervise the administration of the Town under the Town Clerk's charge and to prepare such reports to the Mayor and Town Council as are required by the Mayor and Town Council or Town Manager. The Town Clerk shall make such recommendations to the Town Manager concerning the Town as may seem desirable. The Town Clerk shall keep the Town Manager advised of these matters, and of the financial condition and future needs of the Town.

**Section 20. Town Solicitor**

The Mayor with the advice and consent of a majority of the 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 Mayor and Town Council 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 the Town Solicitor's duty to give legal advice to the Mayor and Town Council and other officers of the Town, as well as to serve as Parliamentarian for the Mayor and Town Council and all Boards and Commissions as required, and to perform other legal services as may be required by the Mayor and Town Council, or the Town Manager or designee.

**Section 21. Board of Health**

- (a) The Mayor, with the approval of the majority of the Town Council, may appoint a Board of Health that shall operate in compliance with the Delaware Code. Such Board shall consist of no fewer than three (3) or nor more than seven (7) members, at least one (1) of whom shall be a physician authorized to practice medicine in the State of Delaware.. 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 Milton. 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 Mayor, Town Manager or designee, and Town Council of necessary measures to be taken to protect public health. The Board shall report to the Mayor and Town Council periodically or as necessary, in writing, on 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 Mayor and Town Council concerning whatever actions the Town should take to contribute to the health of the citizens and the sanitation of the Town of Milton. The Board of Health shall organize the election of a Chair and a Secretary from within Board membership within ten (10) days after notice of their appointment and shall keep a record of their proceedings and acts. The Chair shall be the executive officer of the Board.
- (b) The Board of Health may make recommendations to the Mayor and 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. Such ordinances adopted by the Mayor and Town Council shall extend to an area outside the Town limits for a distance of one (1) mile.

#### **Section 22. Police Force**

- (a) The Mayor and Town Council shall make such rules and regulations as may be necessary for the organization, government and control of the police force. The police force shall preserve peace and order and shall compel obedience within the Town limits to the Ordinances of the Town and the laws of the State of Delaware. The police force, under the direction of the Chief of Police, shall have such other duties as the Mayor and Town Council shall prescribe. The Chief of Police shall be subject to the direction of the Mayor, or in the Mayor's absence, the Vice Mayor. For financial and budgetary duties, the Chief of Police shall report to the Town Manager or designee.
- (b) Each member of the police force shall have police powers as designated in the Delaware Code and shall be conservators of the peace throughout the Town They shall suppress acts of violence and enforce all laws relating to the safety of persons and property. They shall enforce all ordinances enacted by the Mayor and Town Council and all criminal, civil and motor vehicle laws enacted by the State of Delaware.
- (c) The Chief of Police shall be charged with the establishment of standard operating procedures (SOP) for the Milton Police Department.

#### **Section 23. Annual Audit**

The Mayor, with the advice and consent of a majority of the members of the Town Council shall retain the services of a Delaware licensed Certified Public Accountant or Accounting Firm to examine the financial statements and accounts of the Town of Milton. The selected accountant or accounting firm shall have the duty to audit the accounts of the Town. The auditor shall, on or before the expiration of one hundred twenty (120) days from the end of the fiscal year, annually make and deliver to the Town Council's Treasurer and Town Manager or designee a detailed report of any and all accounts, records, and books by the Town Manager or designee examined and audited. Such report under their hand and seal and the Executive Summary of its findings, shall be posted on the Town's website and made available at Town Hall. A notice of the availability shall be published in at least one (1) newspaper having a general circulation in the Town of Milton. The auditor shall have access to all records and accounts of the Town.

#### **Section 24. Town Assessor**

- (a) The Town Assessor may be hired and managed by the Town Manager or designee with the advice and consent of a majority of the members of the Mayor and Town Council for a fixed term contract with the right of annual renewal, such contract to include terms of compensation.
- (b) The Town Assessor shall be sworn or affirmed by the Mayor or by a Notary Public to perform his/her duties with fidelity and without favor. It shall be the Town Assessor's duty to make a fair and impartial assessment of property subject to taxation situated within the corporate limits of the Town and to perform such other duties and reference thereto as shall be prescribed by the Mayor and Town Council.

- (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) In the event that a Town Assessor is not under contract, the Mayor and Town Council may adopt, as the annual assessment for Town of Milton, the assessment for real estate and improvements located thereon as compiled by the Board of Assessments of Sussex County.

**Section 25. Assessment of Taxes**

- (a) In the event the Town uses a Town Assessor, the Town Assessor shall, within one hundred twenty (120) days prior to the beginning of the next fiscal year, make a report to the Mayor and Town Council of the just, true and impartial annual valuation or assessment of all real estate and improvements located thereon within the Town. The Mayor and Town Council shall review such report each year, and may determine to conduct a full reassessment of all real estate and improvements located therein within the Town. No such reassessment shall be performed within the first ten (10) years since the last full reassessment. All real estate shall be described with sufficient particularity to be identified, including the names of all persons assessed. Real estate shall be assessed to the owner or owners if he he, she or they be known. If the owner, or owners, of real estate cannot be found or ascertained, it may be assessed to "Owner Unknown". A mistake in the name of the owner, or owners, 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 owner or owners of record, as it appears from the records in the Office of the Recorder of Deeds, in and for Sussex County. The annual valuation or assessment shall also be arranged so that the land and the improvements thereon appear in separate columns or spaces. In making this valuation or assessment, the Assessor shall make its valuation or assessment accordingly.
- (b) If the Town Assessor owns real property in the Town of Milton, assessment of said property shall be arranged by order of the Mayor and Town Council.
- (c) Immediately upon receiving the annual valuation or assessment from the Town Assessor, the Mayor and Town Council shall cause a full and complete copy of said list, containing the amount assessed to each taxable person or entity, to be posted on the Town website for a period of at least thirty (30) days and available at Town Hall for the information of and examination by all concerned. The Town shall also post, along with the valuation or assessment notices advertising to all concerned, the date, not earlier than thirty (30) days after the date of posting of the true and correct copy of the annual valuation or assessment, on which the Mayor and Town Council will sit and hear appeals from the said annual valuation or assessment. The decision of the Mayor and Town Council, sitting as the Board of Appeals, shall be final and conclusive. The Town Assessor shall revise and complete the report of said valuation or assessment as soon as practicable. No member of the Town Council nor the Mayor shall sit upon his or her own appeal but said appeal shall be heard and determined by the other council members.
- (d) Any taxable person or entity may file an appeal to be heard by the Mayor and Town Council by filing an application in writing at the Town Hall, stating the reason, or reasons, for the appeal, no later than fifteen (15) days before the date on which the Mayor and Town Council will sit to consider such appeals. Once such an application for appeal has been filed, the Town of Milton shall notify the appellant, by certified mail, of the date, time and location of the scheduled appeals hearing and shall confirm that the appellant's appeal shall be heard at said hearing.
- (e) The Town Assessor and staff shall be present on the day fixed for hearing appeals, and shall furnish to the Mayor and Town Council any information it requires, and answer any questions the Mayor and Town Council may have with respect to any assessment for which an appeal has been taken. The Mayor and Town Council shall have the authority to enforce the attendance of the Town Assessor by appropriate process.

**Section 26. Levy of Annual Taxes**

- (a) The Mayor and Town Council, having received the revised and completed annual valuation or assessment, shall determine, in their 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 for the next fiscal year. Such amounts may include reasonable and appropriate reserves as set forth in the Town Budget for such year and may include a reasonable amount to cover unanticipated expenses and emergencies.
- (b) The Mayor and Town Council should then proceed to determine, in consultation with the Town Manager or designee, from which sources of the authorized revenues of the Town the amount of such shortfall, if any, 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 The Mayor and Town Council shall then proceed to determine, assess, fix and/or levy as follows:

- (1) The rate of tax on real estate including improvement thereon per One Hundred Dollars (\$100.00) of the assessed value.
  - (2) The rate of tax upon all poles, construction, erections, wires, billboards, communication towers, and appliances more particularly mentioned, or intended so to be in Section 29 of this Charter as amended; and/or
  - (3) The several license fees to be charged for carrying on or conducting of the several businesses, professions, and/or occupations more particularly mentioned or intended so to be in Section 29 of this Charter, as amended; and/or
  - (4) The several rates to be charged for furnishing water service, sewer service, electric service, gas service, front footage assessment; and/or
  - (5) The fees or rates to be charged with respect to any other authorized source of revenue sufficient in their judgment and estimation to realize the amount necessary, provided however, that in the case of sources (3), (4), and (5), the Mayor and Town Council may, by majority vote and in its discretion, assess, levy and/or alter or change upon other than a fiscal year basis, and at any meeting of the Mayor and Town Council, as the Mayor and Town Council, in its own proper discretion, shall determine.
- (c) 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 above mentioned. This list shall be known as the Annual Tax List of The Town of Milton. 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) 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 under existing laws in reference to said Town and the same are hereby declared to be to be valid, binding and vested in the Town.

#### **Section 27. Collection of Revenues**

- (a) Using the Annual Tax List, the Town Manager or designee shall prepare tax bills for each and every property owner named on said list in the month of January of every year and shall then proceed to collect the taxes, other charges and fees on said list.
- (b) All taxes, other charges, or fees so imposed by the Town of Milton in such Annual Tax List, or as levied or imposed pursuant to Section 26 of this Charter shall be and constitute a lien upon all the real estate within the Town of Milton owned by the taxable person or entity for a period of ten (10) years. The lien shall be applied to any such real estate within the Town of Milton owned by that taxable person or entity at any time after the taxes, fees or charges are imposed. Such lien shall have preference and priority to all other liens on such real estate, as aforesaid, even if such other lien or liens attached at a time and date prior to the time of the attaching of such lien for taxes, charges or fees due to the Town of Milton.
- (c) All taxes, charges or fees, when and as collected by the Town Manager or designee, shall be paid to The Town of Milton, 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 Town Manager or designee or when the charge or fee is imposed.
- (d) All taxes, charges or fees shall be payable at the Town Office of the Town during the regular business hours of that office.
- (e) In the collection of said taxes, on all taxes unpaid after the March 31st due date, interest shall be added at the legal rate of interest in 6 Delaware Code, Section 2301 prorated per month, and an additional sum of two percent (2%) per month as a penalty for each month such taxes shall remain unpaid and said penalty shall be collected in the same manner as the original amount of tax. The Mayor and Town Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid after the due date shall be considered delinquent. In effecting a collection of any delinquent tax, the Mayor and Town Council may impose a collection charge to be listed on the Town's fee schedule not to exceed twenty-four percent (24%) of the amount of the tax, any interest, and penalty imposed thereon.

- (f) In the collection of any other charge or fee imposed pursuant to Section 26 of this Charter, or any such fee or charge paid more than thirty (30) days after the mailing of an invoice, a penalty shall be added at the rate of two percent (2%) per month for each month that such charges or fees remain unpaid and said interest or penalty shall be collected in the same manner as the original amount of such charge or fee. All such charges or fees unpaid after the due date shall be considered delinquent. The Town Council shall have the power to make just allowances for delinquencies in the collection of such charges or fees. In effecting a collection of any delinquent charge or fee the Mayor and Town Council may impose a collection charge not to exceed twenty-four percent (24%) of the amount of the charge or fee and any interests or penalty imposed thereon.
- (g) At the Annual Meeting of the Mayor and Town Council of each year, the Town Manager or designee shall account to the Mayor and Town Council for all taxes, charges, and fees collected during the prior fiscal year and account for any uncollected taxes, charges, and fees.
- (h) The Town Manager or designee, when any tax charge or bill has become delinquent, may, in the name of the Town of Milton, 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 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.
- (i) However, should the Town Manager or designee so elect, the Town Manager or designee is empowered to sell the real property(ies) of the delinquent taxpayer, or the real property(ies) of the delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure:
- (1) The Town Manager or designee shall present in the name of The Town of Milton 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 person or entity;
    - (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 real property proposed to be sold;
    - (G) A statement that the bill of said tax has been mailed to the taxable person or entity at his/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 herein before provided. The petition shall be signed by the 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 Town Manager or designee shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable person or entity at his 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 the Town of Milton shall proceed to sell the real property of the taxpayer for the payment of the tax, charge or fee set forth in said statement. The 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 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 properly 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 \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_ and the Town Manager or designee is hereby authorized to proceed to sell the real property 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 real property of a delinquent taxpayer shall be advertised in four (4) public places in the Town of Milton, to include Town bulletin board and posting on the Town website, and by printing the notice of said sale at least four (4) times in at least one (1) newspaper of general circulation in Town of Milton. The

notice shall contain the day, hour, place of sale and a short description of the real property sufficient to identify the same. The last of these notices shall be posted and published at least fifteen (15) days before the day of the sale.

- (5) Each sale of real property 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 is approved, the 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/her assignee; 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 proceeding.
- (6) No sale shall be approved by the Superior Court if the owner be ready at court to pay the taxes, penalty, collection fees and costs and no deed shall be made until the expiration of ninety (90) days from the date of the sale within which time the owner, his/her heirs, executors, or assigns, shall have the power to redeem the real property on payment to the purchasers, his/her personal representative 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 the sale from proceeds of sale, the amount remaining shall be paid to the owner of the real property. Upon the refusal of the said owner to accept said remainder, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in a bank, either to the credit of the owner or in a manner in which the fund may be identified.
- (8) In the sale of real property for payment of delinquent taxes, interest, penalties, and collection charges, the costs for filing, recording and preparing documents shall be allowed to be deducted from the proceeds of the sale or chargeable against the owner, as the case may be. In addition, the costs of printing handbills or notices, the publication of the advertisement of sale in newspaper, and the auctioneer's fee shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer. The total of any Delaware transfer tax shall be paid by the purchaser of said real property of the tax sale.
- (9) If the owner of any 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 real property in the same assessment in The Town of Milton, the total of said taxes, charges or fees may be collected from the sale of any part or portion of said 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 Town Manager or designee before the proceedings for the sale of real property shall have been completed, the successor in office shall succeed to all of the powers, rights and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to the purchaser receiving a deed for the property purchased thereat, the person having the right 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 requesting an order authorizing and requiring the 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.
- (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 of 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 Milton for Sussex County therein.

#### **Section 28. Town Budget**

- (a) The fiscal year for the Town of Milton shall be October 1 through September 30 of each year, unless changed by Resolution of the Mayor and Town Council.



- (b) Each year Each year, at a meeting of the Mayor and Town Council in July, the Town Manager or designee shall prepare a rough draft of the Town Budget. From this draft, the Mayor and Town Council, shall prepare 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) The amount of the debt of the Town, together with the schedule of maturities of Bond issues.
  - (2) An itemized statement by the Town's Chart of Accounts of all estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;
  - (3) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bonding maturing during the year and the amount required for any "Sinking Fund" or "Sinking Funds";
  - (4) 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.
- (d) This 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 duly noticed meeting of the Mayor and Town Council 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.
- (e) The Mayor and Town Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

### **Section 29. Enumeration of Powers**

Not by way of limitation upon the power vested in the Mayor and Town Council to exercise all powers delegated by this Charter to the municipal corporation or to the Mayor and Town Council except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Mayor and Town Council are vested by this Charter with the following powers, to be exercised by the Mayor and Town Council in the interest of good governance, and the safety, health and public welfare of the Town, its inhabitants and affairs, that is to say:

- (1) To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;
- (2) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, gatherings, amusements and games;
- (3) To ascertain, locate, layout, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent, or remove any obstruction of, level, grade, flag, dress, 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 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;
- (4) To establish and regulate 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.
- (5) To enforce the removal of ice, snow or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners;
- (6) 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 within the Town.
- (7) To define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health, welfare; or the health and capacity of eco-systems that support the natural areas within the town.
- (8) To provide an ample supply of potable 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 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; to define and protect source water protection and recharge areas, 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 Town itself. Prior to contracting for any additive to the Town of Milton drinking water supply, the Mayor and Town Council must have a written recommendation from the appropriate state regulatory authority, the findings of such recommendation to be published in at least one (1) newspaper of general circulation in the Town of Milton and on the Town website. In addition, such written recommendation shall be duly noticed as an agenda item at the next meeting of the Mayor and Town Council. In addition, the Mayor and Town Council may hold a public hearing on such written recommendation for town citizens.

- (9) 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, 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/or to contract for and/or 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 therefore of the Town itself.
- (10) 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, and to assure that all and any construction, apart from these listed above, begin 50 feet from the both high tidal and fresh water ponds, lakes and rivers. In any case, the Town of Milton must be in compliance with state and federal provisions.
- (10) 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 and protected that the general public might enjoy the use thereof. In any case, the Town of Milton must be in compliance with state and federal provisions. 80 Del. Laws, c. 186 (***NOTE: The amendments in this (10) shall take effect on the effective date of a duly adopted protective buffer for the Town of Milton.***)
- (11) 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, wharfs, 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 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. However, decisions to change the supplier of such services, or that involve the use of private property, must be preceded by a meeting of the Mayor and Town Council providing information and an open period for public comment

- (12) 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 to facilities for the health, sanitation and convenience of the Town; and to regulate and permit the type of hard surfacing so as to assure permeability of the surface to maximize percolation of waters into the water table, and thereby reduce storm runoff and Town flooding.
- (13) To grant franchise 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 interest of the Town, but only after providing information at a duly noticed Meeting of the Mayor and Town Council, and the opportunity for public comment, as to the use of present and future streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, wharfs, docks and other public places of the Town for 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 wharfs 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 purpose, firm association or corporation whomsoever;
- (14) To regulate and control the exercise of any license or franchise mentioned in Section 29 of this Charter, or intended so to be;
- (15) To direct, regulate and control the planning, planting, 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; from both public and privately held lands.
- (16) To direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town, that is deemed dangerous or unwholesome or necessary to carry out any improvements as authorized by this Charter;
- (17) To provide for or regulate the numbering of houses and lots on the streets and the naming of streets and avenues;
- (18) 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;
- (19) 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 or 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.**;
- (20) 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;
- (21) To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town;
- (22) To regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, and any other devices for discharging projectiles which may cause bodily injury or injury or harm to property; and to regulate or prevent the use of fireworks, pyrotechnics, incendiaries, explosive devices, and detonating works of all kinds;
- (23) To provide for the punishment of a violation of any Ordinance of the Town by fine or imprisonment, or both, not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) or sixty (60) days, or both, provided however that limitation does not apply to any Code violation relating to Historic Preservation (Chapter 220 Zoning § 220-21);

- (24) To provide for the organization of a fire department and the control and government thereof; 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 seven percent (7%) of the total taxes levied on real estate and improvement thereon unto any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating firefighting 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;
- (25) To purchase, take and hold property when sold for any delinquent tax, assessment, water rent, electrical 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;
- (26) 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 equal to One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000); 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 herein before or hereafter incurred; 80 Del. Laws, c. 186; 80 Del. Laws, c. 350;
- (27) To levy and collect taxes upon the transfer of real property or any interest in real property situate within the corporate limits of the Town of Milton, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur in accordance with Chapter 16, Title 22 of the Delaware Code; and provided further, that no tax shall be levied upon any organization exempted from valorem real estate taxes. 80 Del. Laws, c. 186
- (28) To levy and collect taxes upon all telephone, telegraph, communication towers, billboards, 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, 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 appliances shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies provided for the collection thereof set forth in Section 26 of this Charter, the Mayor and Town Council shall have the authority to cause the same to be removed;
- (29) To license, tax and collect fees annually for any and all municipal purposes (including the cost and expenses of advertising to 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 family with whom the seller resides;
- (30) 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;
- (31) To provide for the collection of all, and disbursement of all monies to which the Town may become entitled by law, including licenses and fines, where no provision for the collection and disbursement thereof is otherwise provided in this Charter;
- (32) 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 Mayor and 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 Five percent (5%) of the assessed value of all real estate in the Town property and improvements thereon within the corporate limits of the Town of Milton subject to the assessment for the purpose of levying the annual tax hereinbefore mentioned;
- (33) To acquire, and/or to vacate the use of lands, tenements, personal property, easements, right 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 by this Charter. Proceedings by way of condemnation in any case shall be as prescribed in Chapter 61, Title 10, Del.C.;

- (34) 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;
- (35) 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;
- (36) 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 subpoena witnesses, administer oaths, or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena;
- (37) To establish by Ordinance duly adopted pursuant to this Charter a Pension Plan or a Health and Welfare Plan, or both, for the employees of the Town under such terms and conditions as the Mayor and Town Council, in its discretion may deem most appropriate; provided, however, that the method of funding may, if deemed desirable by the Mayor and Town Council, be accomplished through an insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of the members of the Mayor and Town Council. However, each employee shall receive the same percent regardless of funding sources.
- (38) To borrow money in anticipation of revenues on the full faith and credit of the Town of Milton 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, the needs of the Town require it. Except for any Town authorized credit accounts, any sum so borrowed shall be secured by promissory notes of the Town of Milton, duly authorized by Resolution adopted by the Mayor and Town Council, and signed by the Mayor of The Town of Milton, 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 Mayor and Town Council; provided, however, that the total sum outstanding at any one time shall not exceed Five Hundred Thousand Dollars (\$500,000.00); provided further, that any sum of money so borrowed, as aforesaid, in any fiscal year, shall be paid from the appropriate fund(s) of the Town and shall be completely repaid at any time, but must be completely paid at the end of ten (10) 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 notes as is required without regard to any limitation concerning the maximum rate of taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof.
- (39) To make, adopt and establish all such Ordinances, Regulations Rules, and By Laws not contrary to the laws of this State and the United States as the Mayor and Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants; provided, however, that 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 or abate environmental contamination, or nuisances affecting the same shall apply not only within the corporate limits of the Town but as well as to all areas and persons outside the Town within one (1) mile from said limits.
- (40) 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.

**Section 30. 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 Town Council meeting, and the opportunity for public comment has been provided.

- (b) In addition, the procedure to be used for any of those things heretofore listed in this Section shall be as follows:
- (1) Whenever one (1) or more property owners in a portion of the Town is 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 shall appoint a committee composed of not less than three (3) of the members of the Town Council to investigate the possibility of changing the structure of said streets in the Town. The petition presented to the Mayor and Town Council by the property owners shall include a description of the property through which the proposed street shall be laid out, or a 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 members thereof, by resolution, propose that a committee composed of not less than three (3) of its members be appointed by the Mayor and confirmed by a simple majority vote of the Mayor and Town Council to investigate the possibility of changing the street structure of the Town.
  - (2) Not later than one-hundred twenty (120) days following its appointment, the committee shall submit a written 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, 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 Town, the Mayor and Town Council, by resolution passed by majority of the 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 propose 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 committee appointed by the Mayor and Town Council is not in favor of changing the existing street structure, the resolution proposing the change in the street structure to the property owners and citizens of the Town of Milton shall be passed by a majority of three fourths (3/4ths) of all the members of the Town Council including the Mayor. 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 Town and be posted in four (4) public places, including the Town bulletin board and posted on the Town website for at least one (1) week prior to the time set for the public hearing. In addition, the notice shall be published at least one (1) week prior to the public hearing in at least one (1) newspaper, posted in four (4) public places as aforesaid, and on the Town website as 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 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, land or alley and shall have affixed compensation therefore, it shall be the duty of the Mayor and Town Council immediately after the survey and location of said street, lane 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 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/her address be known; that if there be no holder or tenant resident in 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 is dissatisfied with the amount of compensation or damages allowed by the Town, as aforesaid, said property owner may, within twenty (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 to the effect that the property owner 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 and appoint a commission made up of five (5) property owners of said county, three (3) of whom shall be residents of the Town, and two (2) of whom shall be non-residents 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 damages 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 property owners named to 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 a banking institution that shall be designated by the Town Council, with offices in Sussex County, Delaware, within said time and thereupon the said property or lands may be taken or occupied for the use as aforesaid.
- (5) If the ascertainment and assessment of damages by those 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 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 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 damages shall be fixed and ascertained by the appointed property owners, 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 31. Sidewalks, Curbing and Paving**

- (a) Whenever the Mayor and Town Council shall have determined that any sidewalk, curbing or paving adjacent to private property shall be constructed, replaced or repaired, or any or all of them, the Town 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 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 the 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 Town Manager or designee shall, as soon as convenient thereafter, present to the owner or owners of such lands a bill showing expenses of such construction, repair or replacement, or any of them. If such owner or owners be not resident in the Town of Milton, such bills shall be sent by certified mail with postage prepaid to such owner or owners at the last known address. If such bills be not paid by the owner or owners of such lands within sixty (60) days after the presentation thereof, as aforesaid, the Town Manager or designee may proceed to collect the same in the same manner and under the same terms and conditions as are provided for the collection of 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 sidewalk heretofore made or done which the said Mayor and Town Council may deem insufficient or need repairing.

### **Section 32. Collection of Charges due the Town**

- (a) In the collection of any charges due the Town for water rentals, sewer service charges, electric bills, gas bills, license fees, tapping fees, front footage assessments, charges growing out of the abatement of nuisances, laying out and repairing sidewalks, or any of them, such charges shall become a first lien against real estate of the delinquent property owner and/or taxpayer 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, over all other liens on real estate created or suffered by the taxable property owner, although such lien or liens be of a date prior to the time for the attaching of such liens for such charges.
- (b) The remedies available to the Town Manager or designee for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

### **Section 33. Power to Borrow Money and Issue Bonds**

- (a) As opposed to the authority pursuant to Section 29 (38) the Mayor and 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 Milton 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 therefore shall have been authorized for the Mayor and Town Council in the manner following:
  - (1) The Mayor and Town Council by resolution shall propose to the residents and property owners of the Town that the Mayor and 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 Mayor and 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 one (1) newspaper having a general circulation in the Town, and may be distributed in circular form at least one week before the time set for the public hearing. In addition, this same information shall be posted at the Town bulletin board and on the Town website.
  - (3) Following the public hearing, a second resolution shall then be passed by the Mayor and Town Council ordering a special referendum 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 referendum to be for the purpose of voting for or against the proposed loan. The passing of the second resolution calling a special referendum shall ipso facto be considered the determination of the Mayor and Town Council to proceed with the matter in issue.
  - (4) The notice of the time and place of holding the said special referendum shall be printed in four (4) issues of at least one (1) newspaper having a general circulation in the Town of Milton within thirty (30) days prior to the said special referendum and distributed in circular form at least fifteen (15) days prior to the special referendum. In addition, it shall be posted in four (4) public places in the Town, to include Town bulletin board and on the Town of Milton website.
  - (5) At the said special referendum, every non-resident property owner owning property within the Town of Milton, including those who have placed their property in a revocable trust, shall have one vote. Further, every partnership or corporation owning property within the Town of Milton shall have one vote. Notwithstanding how many properties are owned by a single non-resident property owner, partnership or corporation, only one vote will be allowed for each such non-resident property owner, partnership or corporation. In addition, every person, male or female, who shall have attained the age of eighteen (18) years on the date of the special referendum and who shall be a citizen of the United States and a bona fide primary legal resident of the Town shall have one vote. Under no circumstances shall a single eligible person or entity be allowed to enter more than one vote, even if such person or entity shall qualify to vote under more than one of the applicable criteria. The said votes may be cast either in person or by absentee ballot. .
  - (6) The Mayor and 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 referendum. The special



referendum, at the discretion of the Mayor and Town Council, may be conducted by the use of voting machines or by paper ballot. The Mayor, by and with 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 eight o'clock a.m. (8:00 a.m.) prevailing time, until six o'clock p.m. (6:00 p.m.) in the evening, prevailing time, on the date set for the special referendum.

- (7) The Board of Special Election 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 Mayor and Town Council which said certificate shall be retained by the Secretary of 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, the provisions as to registration, any callable or redemption provisions, and all other relative or pertinent matters shall be determined by the Mayor and Town Council after the said special election.
  - (9) The bond or bonds or certificates of indebtedness may be sold at public or private sale.
  - (10) The Mayor and 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 Milton 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 and non-bonded indebtedness shall not at any time exceed in the aggregate the total sum of five percent (5%) of the assessed value of real property and improvements thereon situate within the limits of the Town shown by the last assessment preceding the creation of the said indebtedness.

#### **Section 34. Acts or Suits**

No action, suit or proceeding shall be brought, or maintained against the Town of Milton 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 Milton, or any of its departments, officers, agents, servants or employees unless the person or on behalf of whom such claims or demand is asserted, within one year from the happening of said injury or the suffering of such damages shall notify the Town of Milton 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 by certified mail with return receipt requested and postage prepaid.

#### **Section 35. Compendium**

It shall be the duty of the Mayor and Town Council, at reasonable time or times, to compile the ordinances, current regulations, orders, and rules of The Town of Milton. The Mayor and Town Council 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 enactments of amendments to ordinances, regulations, orders and rules, the Mayor and Town Council shall enroll the same in the minutes of the Mayor and Town Council, and shall update all official copies of the compilation and make them public so that the same may be readily examined. The Secretary of the Town Council shall furnish the Mayor of the Town of Milton and Town officials updated compilations, shall update the copies at the Town Hall, and on the Town website.

#### **Section 36. Revival of Powers and Validating Section**

- (a) All powers conferred upon or vested in the Mayor and Town Council of the Town 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 and/or the Mayor and Town Council precisely as if each of said powers was expressly set forth in this Charter.
- (b) All ordinances adopted by the Mayor and Town Council 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 under the provisions of this Charter.
- (c) All of the acts and doings of the Mayor and Town Council or of any official of the Town which shall have been unlawfully done or performed under the provisions of any law of this State or of any ordinance of the Mayor and

Town Council or under any provision of any prior Charter of the Town, 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 Town shall be due the Town and all debts from the Town shall remain unimpaired until paid by the Town.
- (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 Mayor and Town Council.
- (f) The bonds given by or on account of any official of the Town shall not be impaired or affected by the provision of this Charter.
- (g) All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter 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.

71 Del. Laws, c. 326; 73 Del. Laws, c. 229; 74 Del. Laws, c. 371; 75 Del. Laws, c. 2; 76 Del. Laws, c. 201(Total Reincorporation); 80 Del. Laws, c. 186; 80 Del. Laws, c. 350; 81 Del. Laws, c. 70;