

**Seaford****Territory And Limits.****Section 1. (A) The present territorial limits of the City of Seaford are as follows:**

BEGINNING at a point (No. 1) near the center of the Seaford Milling Company's Mill Dam and near where the old waste gates formerly stood, said point being marked by a monument set in the road at a distance of 25 feet therefrom and at right-angles to the first course of this description; thence running from said point N 72° 02' W 231.0 feet to a monument (point 2); thence N 45° 32' W 276.5 feet to a monument (point 3) set on the prolongation of the South side of Poplar Street; (NOTE: the first course, including the point of beginning, and the first 60 feet of the second course are in Williams Pond; the Seaford Milling Company's Mill Dam and the road across it are no longer in existence. Due to the acquirement and construction of Poplar Street Extended, and also due to the recently constructed causeway and bridge over Williams Pond, the second course runs, in part, in the right-of-way of said Poplar Street Extended and point 3 is approximately 5 feet South of the Northerly line of said Poplar Street Extended); thence N 00° 32' W and running on a course parallel with and at a distance of 473.4 feet from the Easterly line of North Street 2466.0 feet to a monument (point 4) set on the Southeasterly line of the State Highway leading to Bridgeville known today as "U. S. Route 13A" S 35° 28' W 908.0 feet (passing over a monument set at the intersection of the Easterly line of North Street and continuing) to a monument (point 5) set at the intersection of the Westerly line of North Street; thence continuing along the Southeasterly line of said U.S. Route 13A S 43° 28' W 282.8 feet to a monument (point 6) set at the intersection of the Southerly line of the State Road known as "duPont Road", thence by and with said Southerly line of duPont Road S 74° 28' W 133.0 feet (passing over a monument set at the intersection of the easterly line of Front Street and continuing) to a monument (point 7) set at the intersection of the Westerly line of said Front Street; thence continuing along the same bearing approximately 1165 feet to a concrete monument (point 8) set on the Easterly line of Market Street; thence in a Northerly direction by and with said Easterly line of Market Street; thence in a Northerly direction by and with said Easterly line of Market Street N 16° 29' 30" W. 370.82 feet to a concrete marker (point 9); thence continuing along the said Easterly line of Market Street (which, in part, runs near and not quite parallel to an existing chain link fence on the westerly line of the Seaford School Board Property) N 17° 00" W 739.30 feet to a concrete marker (point 10) placed on the Westerly line of the lands of, now or formerly, Edward C. Davis and which marks the Northerly line of Nanticoke Avenue; thence by and with said Northerly line of Nanticoke Avenue, which is also the Southerly line of the Seaford Special School District, S 77° 18' W 368.22 feet to a concrete marker (point 11) set on the Westerly line of Arch Street, passing through an area locally known as "Hurley Heights"; thence by and with the said Westerly line of Arch Street S 16° 29' 30" E 1134.46 feet to a concrete marker (point 12) set on the Southerly line of duPont Road; thence proceeding Westerly along said Southerly line of duPont Road S 74° 28' W 741.3 feet (passing over a monument set at the Easterly line of Pine Street and continuing 35.5 feet therefrom) to a point (No. 13) in the roadway of Pine Street; thence continuing along the said Southerly line of said duPont Road S 76° 50' W 20.65 feet to a monument (point 14) set at the intersection of the Westerly line of Pine Street; thence continuing along the said Southerly line of duPont Road on the same bearing 139.3 feet at a monument (point 15); thence continuing along the said Southerly line of duPont Road S 85° 55' W 182.2 feet to a point (No. 16,) the said point being at a distance of 4.6 feet from a point on the prolongation of the back tangent of the Northbound track of the Pennsylvania Railroad; thence continuing along the said Southerly line of said duPont Road S 88° 17' W approximately 37 feet to (point 17) the Westerly right-of-way line of the said Pennsylvania Railroad, thence in a Northerly direction by and with the said Westerly line of said Pennsylvania Railroad R/W 618.55 feet along a slight curve or arc of a circle, the radius of which is 5664.34 feet and the chord of which is N 16° 10' W and 618.32 feet long to (point 18) the P. T. of said curve; thence continuing along said Westerly line of the Pennsylvania R/W N 13° 02' 30" W 1895.6 feet to a point (No. 19) marking the Southerly line of the lands of, now or formerly, James T. Ross; thence by and with said Southerly line of the lands of, now or formerly, James T. Ross and with the Northerly line of the "Murrell Subdivision" S 71° 35' W 2274.4 feet (to point 20); thence continuing on the same bearing with the Northerly line of the land of, now or formerly, George Houston S 71° 35' W 342.8 feet to a granite stone marker (point 21) which is on the Easterly line of the lands of, now or formerly, Adrian Fleetwood and the Westerly line of the lands of, now or formerly, George Houston; thence by and with said line (which, in part, is also the center line of the proposed extension of Nylon Boulevard North of Stein Highway) S 18° 06' E 712 feet to a concrete marker (point 22); thence with the division line, and its projection, between the lands of, now or formerly, Adrian Fleetwood and "Parsons Village" S 71° 23' 30" W 735.0 feet to a granite marker (point 23) on the Easterly line of State Highway 30 leading from Seaford to Wesley Church; thence by and with said Easterly line of State Highway 30 S 18° 35' E 1020.8 feet to the Northerly line of Stein Highway, and continuing on the same bearing 70 feet more across Stein Highway, and continuing on the same bearing 70 feet more across Stein Highway to a point (No. 24) on the Southerly line of said Stein Highway, the total distance of this course being 1090.8 feet; thence by and with said Southerly line of Stein Highway and in part with the Northerly line of the

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"Martin Farms Subdivision" S 77° 04' W 980.8 feet to a concrete monument (point 25) on the Easterly line of Sussex Avenue; thence continuing along the South of lands, now or formerly, of Isaac Willin; thence S 60° 47' E along the said Westerly line of lands of said Isaac Willin, intersecting the centerline of track of, now or formerly, C. & S. R. R. at a distance of 165.8 feet from the last named corner and forming an angle of 122° 52' with the forward tangent as now laid down, and continuing on the same bearing an additional distance of 35.7 feet to a stone (point 54) set on the Southerly right-of-way of the said C. & S. R. R. and also a corner of the lands of, now or formerly, Mrs. T. E. Willin, the total distance of this course being 201.5 feet; thence S 65° 55' E 335.8 feet along the Easterly side of a road (same being the line of lands, now or formerly, of Mrs. T. E. Willin), to a Persimmon tree (point 55), a corner of lands of Said Mrs. T. E. Willin; thence S 46° 51' E 358 feet along the line of lands of the said C. & S. R. R. Co. and along the Easterly side of above-named road to a monument (point 56); thence S 21° 37' E 240.4 feet along the Easterly side of a road to a stone (point 57) set for a corner of the lands of, now or formerly, the Delaware Shipbuilding Company; thence S 44° 08' W 228.4 feet along the line of lands of said Delaware Shipbuilding Company; to a monument (point 58) on the Southerly side of the road; thence S 10° 43' W 330 feet partly along line of lands of the said Delaware Shipbuilding Company and land of, now or formerly, John Palmer, and along the Southerly side of a road to a monument (point 59) on the Southerly side of the road; thence S 05° 58' W 275.3 feet along line of lands of, now or formerly, the said Delaware Shipbuilding Company to a monument (point 60) set for a corner of the lands of the said Delaware Shipbuilding Company; thence S 05° 53' E along the line of the lands of the said Delaware Shipbuilding Company, passing through the decayed stump of a large Sycamore tree (point 61) standing at the edge of a wharf owned, now or formerly, by the Allen Package Company (said tree and edge of wharf being at a distance of 182.5 feet from last-named monument) and continuing along the same bearing to the line of low water of the Nanticoke River; thence up the said Nanticoke River to Herring Run or Clare Creek Branch; thence up the said run or branch with the several meanderings thereof to the Seaford Milling Company's Mill Dam, to the point No. 1 of beginning.

- (b) The above description, courses and distances, includes the territorial limits of the City of Seaford as set forth in Chapter 184, Volume 43, Laws of Delaware, and all annexations which have been authorized by the General Assembly subsequent to the enactment of the previous Charter and prior to the passage of this Act. The description set forth above shall be recorded in the office of the Recorder of Deeds, in and for Sussex County, in Georgetown, Sussex County, Delaware, and shall be evidence in all courts of law and equity in this State.
- (c) In addition to the above described, the territorial limits of the City of Seaford also includes all additional lands annexed by the City of Seaford pursuant to Section 2. 66 Del. Laws, c. 327

### Annexation Of Territory.

#### Section 2.

In the event that it becomes feasible or necessary in the future for the City of Seaford to enlarge its then existing limits and territory, such annexation accomplished in accordance with the following procedures shall be lawful:

- (A) If five (5) or more property owners resident in a territory contiguous to the then limits and territory of the City of Seaford, by written petition with the signature of each such petitioner duly acknowledged, shall request the City Council to annex that certain territory in which they reside and own property, the Mayor of the City of Seaford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. The petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or, the City Council, by a majority vote of the elected members thereof, may, by resolution, propose that a committee, composed of not less than three (3) of the elected members of said City Council, be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Seaford.
- (B) Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the committee shall submit a written report containing its findings and conclusions to the Mayor and City Council. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City and to the territory proposed to be annexed and shall contain the committee's recommendations whether or not to proceed with the proposed annexations and the reasons therefor. In the event that the committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the City and to the territory proposed to be annexed, within thirty (30) days after receiving the report, a second resolution shall then be passed by the City Council proposing to the property owners and residents of both the City and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. In the event that the committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the City or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the committee, the resolution proposing to the property owners and residents of both the City and the territory

proposed to be annexed shall be passed by the affirmative vote of two-thirds of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one year from the date that the resolution failed to receive the required affirmative vote. The second resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper published in the City of Seaford at least one week prior to the date set for the public hearing, or, if no newspaper is published in the City, publication shall be had in a newspaper having a general circulation both in the City and in the territory proposed to be annexed, or, at the discretion of the City Council, the said resolution shall be posted in five (5) public places both in the City and in the territory proposed to be annexed.

- (C) Following the public hearing, but in no event later than thirty (30) days thereafter, a resolution shall then be passed by a majority of the City Council ordering a special election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. The passage of this resolution shall ipso facto be considered the City Council's determination to proceed with the matter of the proposed annexation.
- (D) The notice of the time and place of holding the said special election shall be printed within thirty (30) days immediately preceding the date of the special election in at least two (2) issues of a newspaper published in the City, or, if no newspaper is published in the City, the notice may be printed within thirty (30) days immediately preceding the date of the special election in two (2) issues of a newspaper having a general circulation in the City and in the territory proposed to be annexed, or, in the discretion of the City Council the said notice may be posted in five (5) public places both in the City and in the territory proposed to be annexed, at least fifteen (15) days prior to the date of the special election.
- (E) At the Special Election, every property owner, whether individual, partnership or corporation both in The City of Seaford and in the territory proposed to be annexed shall have one vote. Every citizen of The City of Seaford or of the territory proposed to be annexed over the age of eighteen years who is not a property owner shall have one vote. In the case of property owned by husband and wife jointly, the husband and wife shall each have one vote. In the event that a person owns property both in the City of Seaford and in the territory proposed to be annexed, said person shall vote only in the territory proposed to be annexed. The books and records of The City of Seaford in the case of property owners and citizens of The City and the books and records of the Board of Assessment of Sussex County in the case of property and residents of the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election. 61 Del. Laws, c. 259; 66 Del. Laws, c. 327;
- (F) The Council shall cause to be prepared, printed and have available a sufficient number of ballots not less than five (5) days prior to the date of the special election.
- (G) The form of the ballot shall be as follows:
  - This ballot casts        votes.
  - For the proposed annexation.
  - Against the proposed annexation.
  - (check one)
- (H) The Mayor shall appoint three (3) persons to act as a Board of Special Election, at least one of whom must reside and own property in the City, and at least one of whom must own property in the territory proposed to be annexed. One of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in the Municipal Building and the Board of Election shall have available, clearly marked, two (2) ballot boxes. All ballots cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be deposited in one such ballot box, and all ballots cast by those persons, partnerships or corporations who are authorized to vote as residents or property owners of the City shall be deposited in such ballot box. The polling place shall be opened from 7 a.m. prevailing time, until 3:00 p.m. prevailing time, on the date set for the special election. Absentee voting shall be permitted in conformity with Chapter 75 of Title 15 of the Delaware Code. 66 Del. Laws, c. 19; 66 Del. Laws, c. 327; 80 Del. Laws, c. 272
- (I) Immediately upon the closing of the polling places, the Board of Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Election shall make a certificate under their hands of the number of votes cast for and against the proposed annexation, and the number of void

votes, and shall deliver the same to the City Council. The said certificate shall be filed with the papers of the Council.

- (J) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from the City and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. If a favorable vote for annexation shall have been cast, the City Council of the City of Seaford 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 no event shall such recordation be completed more than ninety (90) days following the favorable Referendum. The territory considered for annexation shall be considered to be a part of the City of Seaford from the time of recordation. The failure of the City of Seaford to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of favorable election. In the event that the referendum results in an unfavorable vote for the annexation, all or any part of the territory considered at the special election for annexation shall not again be considered for annexation for a period of one year from the date of the referendum. 62 Del. Laws, c. 290; 66 Del. Laws, c. 327;

## Structure Of Government

### Section 3.

The Government of the City and the exercise of all power conferred by this charter, except as otherwise provided herein, shall be rested in a Mayor and City Council. The term of the Mayor of the City of Seaford shall be a period of two (2) years. The City Council shall be composed of five (5) members, each of whose term shall be for a period of three (3) years. Annual salaries of the Mayor and members of the City Council shall be as determined by the City Council. 68 Del. Laws, c. 186

## General Powers

### Section 4.

- (A) The inhabitants of The City of Seaford within the limits and boundaries referred to in Section 1 of this Act or within the limits and boundaries established subsequent to May 5, 1961, shall be and they are hereby created a body politic and corporate in law and in equity by the corporate name of "The City of Seaford," hereinafter called the City and under that name shall have perpetual secession, may have and use a corporate seal which may be altered, changed or renewed at pleasure; may sue and be sued, plead and be impleaded in all Courts of law and equity in the State of Delaware, and elsewhere, by said corporate name, may hold and acquire by purchase, gift, devise, lease or by condemnation real property and personal property within or without its boundaries for any municipal purpose, in fee simple or for lessor estate or interest, and may sell, lease, hold, manage and control such property as its interest may require and may do all other things which a body politic and corporate may lawfully do to carry out and effect the objects and purposes of this Act, subject, however, to other Sections of this Act, provided, however, that any property owned by the City, the value of which in the opinion of the members of the City Council equals or exceeds Five Million Dollars (\$5,000,000) shall not be sold or leased without the approval of a majority of the eligible voters of the City who vote at a Special Election called for that purpose. At such Special Election, every owner of property, whether individual, partnership or corporation, shall have one (1) vote and the said vote may be cast either in person or by proxy. Each bonafide resident of the City who is not a property owner and who would be eligible to register and vote in the Annual Municipal Election if the said Annual Municipal Election were held on the day of the Special Election shall have one (1) vote.

As hereinafter provided in this Charter relative to power to issue bonds, the City shall have all powers and functions requisite to or appropriate for the government of the City, its peace and order, its sanitation, beauty, and the health, safety, convenience, comfort and well being of its population, and the protection and preservation of property, public and private; and all actions, suits and proceedings shall be brought in the name of "The City of Seaford." 62 Del. Laws, c. 290; 65 Del. Laws, c. 248; 66 Del. Laws, c. 327; 75 Del. Laws, c. 394; 76 Del. Laws, c. 44;

- (B) The enumeration of particular powers by this Charter shall not be held to be exclusive, or to restrict in any manner the general powers conferred herein, but in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise thereof it is intended that the City of Seaford shall have, and may exercise, all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter

specifically to enumerate. All powers of the City of Seaford whether expressed or implied, shall be exercised as prescribed by this Charter or; if not prescribed herein, by ordinance or resolution of the City Council.

#### **Qualifications For Mayor And City Councilpersons.**

#### **Section 5. Qualifications for Mayor and for City Councilpersons shall be as follows:**

- (1) A bona fide citizen of the United States and of the State of Delaware and a resident of the City of Seaford for at least one (1) year next preceding the annual election; provided, however, that no full-time employee of the City of Seaford shall serve as Mayor or City Councilperson during such time as he/she is a full-time employee of the City of Seaford; and
- (2) At least eighteen (18) years of age; and
- (3) A non-delinquent taxpayer of all capitation and property taxes of the City of Seaford for at least one (1) year next preceding the annual election. 65 Del. Laws, c. 249
- (4) shall not have been convicted of a felony. 76 Del. Laws, c. 153

#### **Method Of Making Nominations For Mayor And City Councilman.**

#### **Section 6. The candidates for Mayor and City Councilman shall be nominated as follows:**

- (a) For each election of Mayor and City Councilman, the City Manager shall post a notice of solicitation of candidates conspicuously in the City Hall at least twenty (20) days prior to the filing deadline for the offices up for election. Such notice shall include the term(s) of each office up for election, the dead line and procedure for declaring candidacy for an office up for election, the qualifications for holding each office and information about how to obtain absentee ballots.
- (b) Each candidate shall notify the City Manager in writing of their candidacy for the office of either Mayor or City Councilman; or five (5) or more persons qualified to vote in the annual election may file the name of the candidate for the office of Mayor or City Councilman with the City Manager provided that the candidate endorses his/her written consent thereon.
- (c) All such notifications of candidacy must be filed with the City Manager on or before the close of business on the Last Friday in February in the year of the annual election next ensuing; and thereupon, it shall be the duty of the City manager to have a list of names of all candidates so filed with him/her printed in a newspaper published in the City of Seaford on the First Thursday in the month of April in the year of the said annual election next ensuing; or in the event that no newspaper is published in the said City, publication may be had in a newspaper having general circulation in the community; or, in the discretion of the City Council, the City Manager may post a list of names of all candidates designating the office sought by each candidate in at last five (5) public places in the City, such public places to be designated by the Council. One (1) of the said public places shall be in the City Hall of the City of Seaford. 76 Del. Laws, c. 153; 80 Del. Laws, c. 101

#### **Manner Of Holding Annual Elections.**

#### **Section 7.**

- (A) The annual municipal election shall be held on the Third Saturday in April of each and every year. The polls shall be opened at Seven (7) a.m. and shall close at three (3) p.m. prevailing time unless only one (1) candidate has been nominated for each office which has expired and for which nominations have been received. If there is only one (1) official candidate for any office and no formal opponent, the official candidate shall assume office without the holding of a formal election for that office. All voting shall take place in the City Hall of the City of Seaford. 80 Del. Laws, c. 101
- (B) At such Annual Election, every person, male or female who shall have attained the age for voting as established by the State of Delaware for voting in a General Election and who shall be a bona fide resident of the City of Seaford as of the day of final registration next preceding the Annual Election and each non-resident natural person of the City of Seaford who shall have obtained the age for voting established by the State of Delaware for voting in a General Election and who shall have been a freeholder of property in the City of Seaford for a period of six (6) months immediately preceding the date of the Annual Election shall have one (1)

vote provided he or she is registered on the "Books of Registered Voters" of the City of Seaford. The City Council of the City of Seaford shall provide two (2) registers to be known as the "Books of Registered Voters" which are to be kept at the Office of the City Manager. The Books of Registered Voters shall contain the following information for each registrant: the name of the registered voter arranged in alphabetical order, the permanent address of the voter, the date the registrant became a resident of the City of Seaford, the date the registrant became a freeholder of the City of Seaford, the birth date of the voter and any other pertinent information. No person shall be registered upon the Books of Registered Voters unless such person will have acquired the qualifications to vote in the Annual Election for the year in which such person registers. A person shall be required to register only one (1) time; provided, however, that the name of a registered voter shall be removed from the Books of Registered Voters by the City Manager upon the death of the registered voter, removal from the City of a registered voter, or loss of any other qualification to vote as prescribed herein, and notice sent to said registered voter at his last known address by certified mail with return receipt requested advising such registered voter that his name has been removed from the Books of Registered Voters and that it will be necessary to register again in order to be eligible to vote in the Annual Election except that no notice be sent when removal is caused by the death of the registered voter. The Books of Registered Voters shall be maintained in the in the office of the City Manager and shall be conclusive evidence of the right of any person to vote in the Annual Election. A person may register at the Office of the City Manager during the regular business hours of such office until the close of business of such office on the Fourth Friday in the month of March by completing such forms as may be required by the City. For all purposes of this Charter, a freeholder shall be deemed to include any natural person who holds fee simple title to real property to his own name or who holds title to an undivided interest in real property, or who holds title to real estate as a joint tenant or as a tenant by the entirety.

- (C) Absentee voting shall be permitted in all municipal elections in conformity with Chapter 75 of Title 15 of the Delaware Code.
- (D) The Mayor shall submit to the City Council, for its approval, the names of individuals to serve as the Board of Elections whose purpose shall be to oversee the municipal election in conformity with Chapter 75 of Title 15 of the Delaware Code. Said Board shall consist of five (5) qualified electors of the City and shall serve for such term as determined by the City Council.
- (E) All municipal elections of the City of Seaford shall be conducted in conformity with Chapter 75 of Title 15 of the Delaware Code. 76 Del. Laws, c. 153

### Organization And Annual Meeting Of Council.

#### Section 8.

Before entering upon the duties of their respective offices, the Mayor elect, and the Councilmen elect, shall be sworn by a Notary Public to faithfully and impartially perform the duties of their respective offices with fidelity. At 7:00 o'clock P. M. on the Second Tuesday in the Month of March following the annual election, the Mayor and City Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity as aforesaid.

- (B) At this annual meeting, on the Second Tuesday in the month of March in each and every year, the City Council shall organize and elect, by ballot, Vice-Mayor, who shall hold office for the term of one year, or until his successor shall be duly elected.
- (C) There shall be twenty-four stated regular meetings of the City Council to be held on the second and fourth Tuesday of each month. The City Council shall have the power to enact ordinances, adopt resolutions, pass motions, make orders and transact all business at these executive meetings. The regular meeting held on the Fourth Tuesday of each month shall be open to the public and the City Council shall have the power to enact ordinances, adopt resolutions, pass motions, make orders and transact all necessary business at these open meetings. The date of any regular meeting of the City Council, as defined in this Act may be changed by resolution passed by a majority of the elected members of the City Council without notice to the general public. 66 Del. Laws, c. 327

### Special Meetings.

#### Section 9.

A special meeting may be called by the Mayor upon his own motion and shall be called by him upon the request of a majority of the elected members of the Council. The said date, hour, and place of such special meeting shall be designated by the Mayor, but in no event shall it be later than five (5) days after the written request is made by the members of the City Council. Failure to call such a meeting may be cause for removal of the Mayor. The City Council shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders, and transact all other business at any such special meeting, called as hereinbefore provided, as the Council has the authority and right to do at any regular meeting.

#### **Quorum.**

##### **Section 10.**

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

#### **Rules And Minutes Of Council.**

##### **Section 11.**

The Council shall determine its own rules and order of business, and shall keep a journal of its proceedings and the yeas and nays shall be taken upon the passage of every ordinance and resolution and shall be entered in the journal with the text of the ordinance or resolution.

#### **Vacancies.**

##### **Section 12.**

If any vacancy shall occur in the office of Mayor or Councilman, by death, resignation, loss of residence in the City of Seaford, refusal to serve, failure to elect or otherwise, the same may be filled by a majority vote of the members of the City Council, the person or persons so chosen to fill such vacancy or vacancies shall be qualified as in the case of newly elected members and shall hold office for the balance of the unexpired term to which he is appointed or until his successor is duly elected and qualified. 58 Del. Laws, c. 28

#### **Disqualifications.**

##### **Section 13.**

If any Councilman or Mayor, during his term of office, shall be found guilty of any crime or misdemeanor and sentenced to imprisonment for any term whatever, or shall for any reason cease to be resident of said City, he shall forthwith be disqualified to act as a member of Council or Mayor, and his office shall be deemed vacant and shall be filled by Council, as aforesaid.

If any Councilman or Mayor, during his term of office shall become a full time employee of the City of Seaford, he shall forthwith be disqualified to act as a member of Council or as Mayor, and his office shall be deemed vacant and shall be filled by Council as provided in this Charter. 60 Del. Laws, c. 111

#### **Contracts.**

##### **Section 14.**

It shall be unlawful for the City Council to make or enter into any contract in excess of Five Hundred Dollars (\$500.00) for materials, supplies, work or labor for the benefit and use of the City of Seaford with any member of the City Council or the Mayor or with any partnership in which any member of the City Council or the Mayor is a general partner or with any corporation in which any member of the City Council or the Mayor is a director or controlling stockholder or with any firm or company which any member of the City Council or the Mayor is pecuniarily interested, provided that if all the elected members of the City Council shall vote to enter into such contract, then the City may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.

All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by advertising and by competitive bidding in the awarding of contracts to the lowest responsible bidder; PROVIDED HOWEVER, that competitive bidding shall not be required under any of the following circumstances:

1. The aggregate amount involved is not more than Twenty-five Thousand Dollars (\$25,000) 76 Del. Laws, c. 44
2. The purchase or contract is for personal or for professional services;
3. The purchase or contract is for any service rendered by a university, college, or any other educational institution;
4. The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision thereof;
5. The purchase or contract is for property or services for which it is impracticable to obtain competition;
6. The public exigency as determined by city council will not permit the delay incident to advertising;
7. The purchase or contract is for property or services for which the City Council determines the price received after competitive bidding are unreasonable as to all parts of the requirements or were not independently reached in open competition;
8. A public emergency as determined by the City Manager exists. 62 Del. Laws, c. 290; 68 Del. Laws, c. 186;
9. Contracts in which the City Council directly contracts for the procurement of labor or material for public improvements for the benefit of a special development district or a tax increment financing district created or designated by the Council. The provision includes a contract between the City Council and an owner of real property located in a special development district or tax increment financing district which provides for the transfer to the City Council from the owner of work performed by and the cost of labor or materials provided by the owner for the benefit of the district. 76 Del. Laws, c. 44

#### **Officers.**

#### **Section 15.**

- (A) The City Council shall at the annual meeting held on the Second Tuesday in the month of March appoint, by a majority vote, Auditors, City Solicitor, Assessor, and such other officers, employees and agents of the City, which by it may be deemed proper and necessary for the proper conduct and management of the City except as hereinafter provided. Any officer elected by a vote of the Council may be removed at any time by the Council at their pleasure. 63 Del. Laws, c. 343
- (B) The City Manager shall be neither Mayor nor a member of Council, and may or may not be a resident of the City of Seaford. The City Manager shall hold office for such term and at such compensation as the City Council shall determine. The duties of the City Manager shall be those of Treasurer, Secretary, and the Council may by Ordinance or resolution impose upon the City Manager any further duty or duties as they shall see fit to properly carry out the provisions of this Act.

The City Manager shall record all the proceedings of the Council and keep a correct journal of the same in a book to be provided for that purpose; and shall file and keep in a safe place the Seal of the City and all papers and documents, relative to the affairs of the City, and immediately deliver the same to his successors in office. The City Manager shall attest the Seal of the City when authorized by Council.

The City Manager shall render to the City Council as part of the budget process a true, accurate and detailed account of all monies collected or received by the City during the prior fiscal year. The City Manager shall pay all orders drawn on him by order of said City Council by checks signed by him from any monies in his hands belonging to the City. The Mayor shall countersign all checks for the payment of monies drawn by the City Manager upon the order of the City for any amount in excess of Twenty Thousand Dollars (\$20,000.00).

The City Manager shall deposit the funds of the City of Seaford in a recognized banking institution located in the City of Seaford designated by the City Council or the City Council, in its discretion, may direct the City Manager to invest the funds of the City of Seaford in securities issued by the United States, the State of Delaware, or any political subdivision thereof.

The Assistant City Manager shall perform the functions of the City Manager if the City Manager is unavailable and at such other times as may be designated by the Mayor. During such periods of time, the Assistant City Manager shall have all the powers and duties of the City Manager; provided, however, that before the person appointed as Assistant City Manager shall enter upon any duties of the City Manager, he shall furnish bond with a corporate surety for the faithful performance of his duties, approved and paid for by the City in an



amount not less Twenty Thousand Dollars (\$20,000.00). 55 Del. Laws, c. 99; 68 Del. Laws, c. 127; 68 Del. Laws, c. 186;

- (C) The Council by ordinance may fix the salaries and compensation of all its employees and cause to be kept a full and complete record of all officers appointed and employees and agents hired by the City containing the names of such officers, employees, and agents, the date and term of their appointment for employment, the salary or compensation and the date of termination of service.

All employees of the City of Seaford who are entrusted with the handling of monies of the City of Seaford shall be bonded with a corporate surety, approved and paid for by the City, for the faithful performance of their duties. The bond of the City Manager and assistant City Manager shall be not less than twenty Thousand Dollars (\$20,000.00) and the bond for each of the other employees required to be bonded by this subsection shall be not less than Ten Thousand Dollars (\$10,000.00).

- (D) The Mayor, by and with the consent of a majority of the elected members of the City Council shall appoint a City Manager who shall be the Chief Administrative Officer of the City and who shall be appointed for an indefinite term. The Mayor may also appoint an Assistant City Manager. Either the City Manager or the Assistant City Manager, or both of them, may be removed by a majority vote of all the elected members of the City Council. At least thirty (30) days before such removal shall become effective, the City Council shall, by a majority vote of all its elected members, adopt a preliminary resolution stating the reasons for the removal of either the City Manager or the Assistance City Manager, or both of them. Either the City Manager or the Assistance City Manager, or both of them, may reply in writing and may request a hearing, said request to be received by the Mayor within ten (10) days after the adoption of the said preliminary resolution. The hearing shall be held not earlier than twenty (20) days nor later than thirty (30) days after the request for the hearing is received by the Mayor. After such hearing, if one be requested, and after full consideration, the City Council, by a majority vote of all its elected members, may adopt a final resolution of removal. By the preliminary resolution, the Mayor and City Council may suspend the City Manager or Assistant City Manager, or both of them, from duty but shall, in any case, cause to be paid to the person or persons so removed any unpaid balance of his salary.

- (E) The City Manager shall be responsible to the Mayor and City Council for the proper administration of the affairs of the City placed in his charge, and to that end he shall have the power to appoint and remove all officers and employees of the City. All appointments made by the City Manager shall be without definite term. All such employees appointed by the City Manager, or by his authorization, may be removed by him at any time. He shall exercise his sole discretion in the appointment or hiring of any such employees. The City Manager shall be the sole judge of the competence or incompetence of any such person appointed or hired by him. The Mayor and City Council shall sit as a Board of Appeal for the protection of City employees at those times when the Mayor and a majority of all the elected members of the City Council are agreed that a review of the action of the City Manager in the discharge or removal of any person from the employment of the City would be in the best interest of the City. The decision of the Mayor and City Council in such case shall be final and conclusive. 63 Del. Laws, c. 343; 66 Del. Laws, c. 327;

#### **Duties Of The Mayor And President Of City Council.**

#### **Section 16.**

- (A) The Mayor of the City of Seaford shall be President of the City Council and shall preside at all meetings thereof, but shall vote only in the event of a tie. He shall appoint all committees, receive complaints of nuisances, and other complaints of citizens concerning violations of law and ordinances. He shall present a report of complaints of nuisances and violations of law and ordinances to the City Council at the first regular meeting thereafter. He may require the Alderman or the Assistant Alderman, as hereinafter provided for in this Act, or the resident Justice of Peace to proceed upon such infractions or violations of law or ordinances immediately in the event that he deems such action to be required.
- (B) The Mayor within thirty(30) days following his election may appoint, by and with the advice and consent of a majority of the elected members of the City Council, two suitable persons who shall be qualified voters of the City of Seaford to act as Alderman and Assistant Alderman. The persons so selected and designated need not be Justices of the Peace. Both the Alderman and the Assistant Alderman shall hold office for a term of one (1) year or until each successor shall be appointed or chosen, provided, however, that either of the persons so, chosen may be reappointed in accordance with the provisions of this Act.

- (C) The Mayor may for any reasonable cause, by and with the consent or upon the address of a majority of all the members of the Council, remove from the office, any person appointed by him or by any of his predecessors. The person against whom the Mayor of the Council may be about to proceed shall receive five day's notice thereof, accompanied by a statement of the cause alleged for the removal and shall be accorded a full and fair hearing.
- (D) The Mayor may appoint such other committees as he deems necessary for the proper administration of the City of Seaford or the Council may, by resolution, authorize the Mayor to appoint certain committees which are deemed necessary to carry out the provisions of this Act.
- (E) It shall be the duty of the Vice-Mayor of the City Council, in the absence of the Mayor to preside at all of the meetings of the City Council and in the event of absence of the Mayor to perform such other duties and have such other powers of the Mayor as are prescribed by the Charter of the City of Seaford or by any ordinance of the Council.

#### **Duties Of The Alderman And Assistant Alderman.**

#### **Section 17.**

- (A) Before entering upon the duties of his office, the persons appointed by the Mayor to serve as Alderman and Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of his office, honestly, faithfully, and diligently. The Assistant Alderman shall perform the functions of the Alderman if the Alderman is unavailable and at such other times as may be designated by the Mayor. During such periods of time, the Assistant Alderman shall have all the powers and duties of the Alderman. It shall be the duty of the Alderman and the Assistant Alderman to enforce all laws enacted for the government of the City and to carry into effect all orders and directions of the City Council made in pursuance of any law of this State and to carry into effect any ordinance that the City Council may legally make or establish. The City Council shall procure a suitable record for the use of the Alderman and the Assistant Alderman. Such record shall be known as the "Alderman's Docket". The Alderman and the Assistant Alderman shall each keep all official acts and proceedings in the "Aldermans' Docket".
- (B) The Alderman and Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the limits of the City and within one mile of the limits and territory of the City so far as to arrest and hold for bail or to fine and imprison offenders; of all fines, penalties and forfeiture prescribed by this Charter, ordinances enacted hereunder; or any law of the State of Delaware; of all neglects, omissions or defaults of any member of the police force, or of any other City officer, agent or employee; provided that he shall impose no fine or penalty in excess of Five Hundred Dollars (\$500.00) exclusive of costs and no term of imprisonment in excess of sixty (60) days, except as otherwise provided in this Charter.
- (C) The fees of the Alderman and Assistant Alderman for any service shall be the same as those of a Justice of Peace for like service. For any service or duty for which no fee is provided by law for a Justice of Peace, the City Council may establish a fee by ordinance.
- (D) If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he shall deliver to the City Manager, within two (2) days after his removal from office, all the books and papers belonging to his office, and shall pay over to the City Manager all monies in his hands within five (5) days after receiving the notice of his removal from office. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or the Assistant Alderman, the City Manager shall require the auditor of the City, appointed as hereinafter provided, to make an audit of the books and papers of the official so removed from office. Upon the neglect or failure to deliver all the books and papers to the City Manager within the time specified by this Charter, or to pay over all the monies to the City Manager within the time specified, the Alderman or Assistant Alderman, so removed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined no less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each day that he fails to deliver the books and papers to the City Manager or to pay over all monies to the City Manager.

#### **Duties Of Police.**

#### **Section 18.**

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The said police officers shall be conservators of the peace within the limits of said City and shall monthly, or as often as the Mayor shall deem desirable, submit a consolidated report setting forth at a minimum the number of arrests made during said preceding month. The police officers shall see that ordinances are enforced, and they together with such assistants or other policemen as may be appointed, shall have power to arrest any person or persons for the violations of said federal, state, and city laws or ordinances wherein an arrest for violation is provided; and in addition thereto, shall have all of the same powers and functions as established under Delaware Code Titles 11 and 21.

Each member of the Police force shall be vested, within the city limits and within one mile outside of said limits, with all the powers and authority as established under Delaware Code Titles 11 & 21 and in the case of hot pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

It shall be the duty of the police to suppress riotous, disorderly or turbulent assemblages of persons in the streets of the City, or the noisy conduct of any person in the same, and upon view of the above, or upon view of the violations of any ordinance of the City relating to the peace and good order thereof, the Police shall have the right and power to arrest without warrant and to take the offender before the Alderman or Justice of the Peace for hearing.

If any Police Officer shall neglect or refuse to perform any of the duties required of him by this Act, he shall be deemed guilty of a misdemeanor, and the Mayor of said City may present him to the Grand Jury of Sussex County, and upon conviction he shall be fined in a sum not less than Twenty-five nor more than five Hundred Dollars, and may be imprisoned in the discretion of the Court for any term not exceeding one year, and upon such conviction he shall ipso facto forfeit his office. 66 Del. Laws, c. 66

#### **Duties Of Board Of Health.**

##### **Section 19.**

The Mayor, with the approval of Council shall appoint in the month of March of each and every year not less than three nor more than seven persons, of whom at least one shall be a physician duly authorized to practice medicine, who shall constitute a Board of Health for said City, and who shall serve for one year, and whose duty shall be to have cognizance of the interests of health and life among the people of said City and to report to the City Council in writing whatever in their judgment is injurious to the health, or that shall contribute to useful sanitary information. The said Board shall have all the powers vested by the laws of the State, now or hereafter enacted, in Boards of Health generally, and also such additional powers as may be conferred by ordinances adopted by the City Council of the City of Seaford. Said Board shall organize by the election of a President and Secretary within ten days after notice of their appointment, and said Board shall keep a record of their proceedings and acts as a Board.

#### **Duties Of Auditors.**

##### **Section 20.**

The City Council shall annually appoint certified accountants as auditors, not members of the Council, who shall examine and audit the books and accounts of the Council and City Manager, Mayor and Alderman, for the fiscal year ending the 30th day of June. After having completed such examination and audit, the said auditors shall submit a full detailed report thereof to the Council, and the same shall be retained as a permanent record of the City Council, which said report shall show the amount of taxes or other revenues remaining unpaid; the amount of monies received by the City Manager and when and from what source; and the amounts paid out by the City Manager upon orders; the amount of fines imposed by and received by said Mayor and Alderman and the amount of license fees collected by said Mayor; and the number and amounts of all orders drawn by the Council and the nature of the bills for which said orders were drawn. The auditors shall receive for their services a reasonable compensation per annum.

It shall be the duty of the City Manager to cause a public notice of the availability for examination of a copy of the detailed audit during regular business hours at the City office. Said public notice shall be published in at least one newspaper printed or published in the City or posted in at least ten of the most public places in the City. 66 Del. Laws, c. 327

#### **Duty Of City Solicitor.**

##### **Section 21.**

At the annual meeting, the Council shall select a City Solicitor for the term of one year or until his successor shall have been duly chosen and qualified. The City Solicitor shall be a member of the Bar of the State of Delaware. It shall be his duty

to give legal advice to the Council and other officers of the Council and to perform other legal services as may be required by the Council. 66 Del. Laws, c. 327

### **City Budget.**

#### **Section 22.**

Annually in each year, and not later than the 30th day of June the Council shall prepare a budget containing the financial plan for conducting the affairs of the City for the ensuing fiscal year. The fiscal year shall be from July 1st to June 30th of the following year.

The budget shall contain the following information:

1. A detailed estimate showing the expenses of conducting each department and office of the City for the ensuing fiscal year.
2. The amount of the debt of the City, together with a schedule of maturities of bond issues.
3. A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year, and the amount required for the sinking fund.
4. An estimate of the amount of money to be received from taxes, and all other anticipated income of the City from any source or sources.

The Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations. 66 Del. Laws, c. 327

### **Fire Department Appropriation.**

#### **Section 23.**

- (A) The City Council may set aside or appropriate annually a sum not to exceed ten per cent (10%) of the total amount collected as taxes on real estate, to be used to provide and maintain equipment of the Seaford Volunteer Fire Department, Inc. 66 Del. Laws, c. 327
- (B) The President of the said Fire Department shall, at the last regular meeting of the City Council immediately preceding the annual election or as the City Council, by resolution, might otherwise require, submit a report to the City Council setting forth the number of fire alarms answered since the last report was made to the Council, the number of miles traveled by each piece of equipment of the fire department, the average number of firemen present at each alarm, and the general condition and efficiency of the Fire Department.

### **City Employees.**

#### **Section 24(A)**

The City Manager may hire such employees, in such numbers and with such qualifications as, in the City Manager's discretion, are necessary to perform properly and efficiently the functions and duties of the municipality. The salaries of such employees shall be fixed by the City Council. Such employees may be removed by the City Manager. Any employee discharged under the provisions of this subsection who feels he has been aggrieved may request a hearing before all the members of the Mayor and Council by filling an appeal with the secretary of the council (City Manager) by registered mail with return receipt requested within five (5) days after he has been notified of his discharge. The Mayor shall set a time for such hearing, which shall be held within twenty one (21) days after the date of receipt of the written request and the secretary shall give the employee ten (10) days notice of the time and place of such hearing. Unless the discharged employee requests a public hearing before the Mayor and council, the hearing shall be private. All City employees discharged are covered by the right of appeal except sworn police officers excluding the Chief of Police who must follow Title 11, Chapter 92 "The Police Bill of Rights". The Chief of Police would have the same rights of appeal as all civilian employees. 66 Del. Laws, c. 327

Nothing in this section relating to the hiring and discharging of employees shall prevent the hiring and discharging of employees on a temporary or probationary basis. In the event that a person is employed on a temporary or probationary basis and is discharged within six (6) months from the date of his employment, it shall not be necessary that he be accorded a hearing. In the event that an employee is discharged within six

(6) months from the date of his employment, it shall be presumed that he was employed on a temporary or probationary basis and no hearing shall be necessary.

- (B) The City Council may, by ordinance duly adopted in accordance with this Charter, establish a pension plan or a Health and Welfare Plan, or both, for the employees of the City of Seaford under such terms and conditions as the City Council, in its discretion, deems most appropriate, provided however, that any annual appropriation which is made by the City of Seaford under any such pension plan or Health and Welfare Plan, or both, shall not exceed a maximum of fifteen percent (15%) of the total annual payroll of the City of Seaford and provided further that the method of funding may, if deemed advisable by the City Council, be handled through a recognized insurance company licensed by the State of Delaware or authorized to do business in this State as approved by a majority of City Council.

#### **Assessor And Assessment Of Taxes.**

#### **Section 25.**

- (A) At the annual meeting held following the annual municipal election and in no event later than the first regular meeting, the Mayor shall appoint a qualified person or firm to serve as Tax Assessor.
- (B) It shall be the duty of the Tax Assessor of the City of Seaford duly appointed to make a true and impartial assessment of the real property of each citizen resident within the limits and territory of the City and also non-residents who own real property within the limits and territory of the City. The said real property shall be assessed at its actual and true value provided that any real estate within the corporate limits of the City containing in excess of five (5) acres and used exclusively for recreational purposes by non-profit organizations, or as farm land shall be exempt from taxation for City purposes. If, however, the real estate meets the criteria described above but has a building or other improvement on it, said building or other improvement shall not be exempt from taxation but shall be taxed as all other real estate lying within the territory and limits of the City of Seaford.
- (C) The said Tax Assessor shall make a fair and impartial assessment as required by this Act and by any ordinance adopted by the City Council pursuant to this Act and shall return the assessment with the property owners alphabetically arranged as made by him within thirty (30) days after having been appointed. The Tax Assessor may adopt the fair market valuation as made by the Board of Assessment of Sussex County for such real estate if the said Tax Assessor, in his judgment, considers such assessment to be proper and fair. The Tax Assessor shall be present in any advisory capacity, but without voting power, at the time the City Council sits at a Board of Revision and Appeal.
- (D) The said Tax Assessor shall, at the option of the City Manager, make a supplemental assessment list quarterly in each fiscal year. The first such supplemental assessment list shall be certified on July 1 of each year, the second on October 1 of each year, the third on January 1 of each year, and the fourth on April 1 of each year.
- (E) The City Council shall cause a full and complete transcript of the assessment list alphabetically arranged, to be posted in the City Hall and in one (1) other public place within thirty (30) days following its completion by the Tax Assessor. The said transcript shall remain posted for at least ten (10) days.
- (F) At the first regular meeting following the expiration of the ten (10) day period required for posting the City Council, between the hours of seven o'clock in the evening, prevailing time, and eight o'clock in the evening, prevailing time, on said day shall sit and determine any appeals from the assessment as determined by the Tax Assessor and shall make any corrections, alterations or additions in and to any assessment so made. The said Council, sitting as a Board of Revision and Appeal, shall have full authority to alter, revise, reduce or increase the assessment of property of any person or persons, partnership or corporation whose property has been assessed by the Tax Assessor. Any person appearing before the City Council sitting as a Board of Revision and Appeal may appear in person or may be represented by any third party who has written authorization to so appear. In the event that the Council finds it necessary, or for any reason whatsoever to increase the assessment of property of any person or persons, partnership or corporation at the time of its sitting as a Board of Revision and Appeal, it shall give notice by registered mail with return receipt requested to such person or persons, partnership or corporation that the assessment on the real or personal property as made by the Assessor has been increased and, in addition, it shall set a time and date not later than twenty (20) days from the date of the mailing of said notice when such person or persons, partnership or corporation may appear before the Council sitting as a Board of Revision and Appeal for the purpose of introducing any evidence why the assessment should not be so increased. In the event that said person or persons, partnership, or corporation does not notify the Council in writing by registered mail at least five (5) days prior to the date set by

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the Council sitting as a Board of Revision and Appeal for the hearing on the increased assessment of an intent to appeal the decision to increase his or her assessment, the increased assessment shall be final and no appeal there from shall be taken thereafter.

- (G) The assessment, as revised and adjusted by the City Council sitting as a Board of Revision and Appeal, shall be the basis for the levy of the taxes of the City, subject however, to the addition of any interest and penalties as hereinafter provided.
- (H) No member of the City Council shall sit as a member of the Board of Revision and Appeal upon his own appeal, but the appeal by any member of the City Council shall be heard and determined by the other members of the Board of Revision and Appeal in the same manner as hereinbefore provided.
- (I) After the valuation, assessment and any revision thereof, all taxes so assessed shall be levied and raised in equal proportions and rates.
- (J) The assessment and valuation of real estate in the City of Seaford as made by said Assessor, and as corrected, altered or added to by the City Council at its sitting as a Board of Revision and Appeal hereinbefore mentioned, shall stand and is acted upon until changed as provided for herein.
- (K) After the said Tax Assessor shall have completed the assessment of property in the City and shall have made his report to the City Council, and shall have sat in an advisory capacity with the City Council sitting as the Board of Revision and Appeal, he or she shall have such further duties in respect to the assessment of persons and property as the City Council shall prescribe by resolution.
- (L) The Assessor shall also have the right to levy and collect taxes upon all telephone, telegraph, power poles or other erections of like character erected within the limits of the City together with the wires and appliances thereto or thereon attached, that are now assessable and taxable and to this end may at any time direct the same to be included in or added to the City Assessment. In case the owner or lessee of such poles or erections shall refuse or neglect to pay the taxes that may be levied thereon, the said taxes may be collected by the Collector of Taxes as in the case of other taxes and the Council shall have the authority to cause the same to be removed.
- (M) The Council shall determine and fix a rate of taxation which will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund. 76 Del. Laws, c. 153; 77 Del. Laws, c. 297;

### **Taxation Of Real Estate Transfers**

#### **Section 25A.**

- (a) The City Council of the City of Seaford, in addition to all other powers conferred upon it by this Act, shall have the power and authority by ordinance or ordinances to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the City Council to be paid by the transferor or transferee upon the transfer of real property or any interest in real property situate within the corporate limits of the City of Seaford, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfer occur; provided, however, that no tax levied under this Section shall exceed one and one-half percent (1 ½%) of the value of the property; and provided further that no tax shall be levied upon an organization exempted from ad valorem real estate taxes. 76 Del. Laws, c. 153
- (b) No tax levied under this Section shall exceed one and one half percent (1 ½%) of the sale price (including the value of any assumed mortgage or mortgages) or of the fair market value of the real property so transferred; and provided, however, that no tax shall be imposed upon an organization which is exempted from ad valorem taxes. The provisions of Section 5401 and Section 5403, Chapter 54 of Title 30 of the Delaware Code shall be applicable to any realty transfer tax imposed pursuant to this Act. 76 Del. Laws, c. 153
- (c) The City Council of the City of Seaford may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this Section.
- (d) No tax levied under this Section shall exceed one percent (1%) of the sale price (including the value of any assumed mortgage or mortgages) or of the fair market value of the real property so transferred; and provided, however, that no tax shall be imposed upon an organization which is exempted from ad valorem taxes. The provisions of Section 5401 and Section 5403, Chapter 54, Title 30, **Del.C.**, shall be applicable to any realty transfer tax imposed pursuant to this Act.

- (e) The City Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, or other agent in and for Sussex County, and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Section.
- (f) The City Council shall not implement any ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property until it shall be approved by a majority of the qualified voters at a Special Election to be held pursuant to a Resolution adopted by the City Council of the City of Seaford. The City Council shall give notice of the Special Election by printing a copy of the Resolution calling the Special Election in at least two (2) issues of a newspaper having a general circulation within the corporate limits of the City of Seaford within thirty (30) days immediately preceding the date of such Special Election. At the said Special Election, every person who is a bona fide resident of the City of Seaford and who would be entitled at the time of the holding of the said Special Election pursuant to the provisions of this Act to register and vote in the Annual Municipal Election if such Annual Municipal Election were held on the day of the Special Election to be held pursuant to the provisions of this Act may vote at the said Special Election regardless of whether such person is registered to vote in the Annual Municipal Election. The Special Election shall be held by a Board of Election to be appointed by the Mayor of the City of Seaford at least two (2) weeks before such Special Election. The Board of Election shall consist of an Inspector of the Special Election and such judges as shall be appointed by the Mayor. If a majority of the votes cast at the Special Election shall be in favor of the transfer tax authorized by this Act, the tax may be levied and collected as provided for in this Act. The Board of Election holding the Special Election shall meet immediately after the close of such special Election to ascertain the result and shall certify the result to the City Council. The hours of the Special Election shall be from two o'clock in the afternoon, prevailing time, until six o'clock in the afternoon prevailing time, and such persons who are in the polling place at six o'clock in the afternoon, prevailing time, shall be entitled to vote even though such votes may be cast after six o'clock in the afternoon, prevailing time. If the majority of the votes cast at any Special Election held under this Act shall be against the levying of the tax authorized by this Act, the proposition shall not again be submitted to the qualified voters until the expiration of ninety (90) days from the date of the said Special Election.

#### **Traffic Violations.**

#### **Section 26.**

All driving and vehicular traffic and coaches, as well as pedestrians on the public streets within the limits and territory of the City of Seaford shall be governed by the provisions of Section 4111 and 4181, inclusive, Title 21, **Del.C.** of 1953, as heretofore or hereafter amended by the General Assembly of the State of Delaware, except to the extent that such provisions have been altered or supplemented by ordinance duly passed by the City Council, as authorized by Title 21, Chapter 41, Del. C. of 1953, as amended. The Alderman and the Assistant Alderman of the City of Seaford, duly appointed by the Mayor of the said City, shall have the power to impose the maximum penalty authorized by the provisions above referred to.

#### **TAXATION AND COLLECTION THEREOF.**

#### **Section 27.**

- (A) The City Council, after having ascertained the sum necessary to be raised as taxes for the purpose of this Act, which sum shall not in any one year exceed the total sum of \$5,000,000 in excess of all delinquencies and expenses of collection, and after having apportioned the sum on the assessment and valuation as hereinbefore set forth, shall annually in the month of May or soon thereafter as practicable but in no event later than the 30th day of June in any year, cause to be delivered to the City Manger, a list containing the names of the taxables, as well as the owners of real and personal property and opposite the name of each taxable, the amount of assessment on his real and personal property, and his City per capital assessment, and the rate of tax on the real property and on the personal property per hundred dollars of assessment. The list as delivered to the City Manager shall be signed by the Mayor. 58 Del. Laws, c. 196; 59 Del. Laws, c. 283; 65 Del. Laws, c. 21; 76 Del. Laws, c. 44;
- (B) The City Manager, upon receipt of said list, shall, as soon as possible, but in no event later than ten (10) days thereafter, mail to each taxable a statement showing the amount of assessment on his real and personal property, the per capita tax, the rate per hundred dollars of assessment on his real and personal property and the total tax due and owing.

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- (C) In the collection of said taxes, the City Manager shall make an abatement of five percent (5%) of all taxes paid prior to the thirty first day of July next following the mailing of tax statement to each taxable as provided in subsection (B) above. On all taxes paid after the thirty-first day of July as aforesaid and before the first day of September next, there shall be no abatement from nor any interest or penalty added to the amount of tax assessed by the City Council. On all taxes paid after the first day of September as aforesaid, interest at the rate of one-half of one percent (.5%) per month and an additional sum of one percent (1%) per month as a penalty shall be added until the same shall have been paid. The Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid after the first day of September shall be considered delinquent. In effecting collection of any delinquent tax, the City Council may impose a collection charge not to exceed Eighteen per cent (18%) of the amount of the tax, and any interest or penalty imposed thereon. 57 Del. Laws, c. 380
- (D) All taxes assessed upon any real estate and unpaid after the first day of September shall constitute a first lien against all real estates and personal property of the delinquent taxpayer situated within the limits of the City of Seaford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. All capitation or taxes assessed and laid against any resident of the City shall also become a first lien against all real estate and all personal property of the delinquent taxpayer situated within the City. Whenever the personal property of the taxable is sufficient to pay the delinquent taxes, the City Manager, in the name of the City of Seaford, may institute suit before any Justice of the Peace within the said City, or before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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 Peace or in the Court of Common Pleas or in the Superior Court as the case may be.
- (DD)(1) In addition to the annual assessment provided for herein, the City Manager may, at the City Manager's option, direct the tax assessor to prepare a quarterly supplemental list for the purpose of adding property not included on the last assessment or increasing the assessed value of property which was included on the last assessment. The supplemental list may be used to correct errors on the prior assessment rolls and to remove or modify any exemption from taxation applicable to property in the City.
- (2) Such supplemental list shall be prepared quarterly in each fiscal year. The first such supplemental list shall be certified on July 1 of each year; the second on October 1 of each year; the third on January 1 of each year; and the fourth on April 1 of each year.
- (3) On the date of certification of a supplemental list, the property owners listed thereon shall be liable to pay taxes equal to the assessed value of the property multiplied by the tax rates for the then current fiscal year applicable to the property, reduced by 25% where the property is listed on the second supplemental assessment roll; by 50% where the property is listed on the third supplemental assessment roll; and by 75% where the property is listed on the fourth supplemental assessment roll; and the amount of such tax shall be and remain a lien on such property from the time of its certification. In the collection of said taxes, before the first day of the second month after certification, there shall be no interest or penalty. On all taxes paid after the first day of the second month after certification, interest at the rate of one-half of one percent (.5%) per month and an additional sum of one percent (1%) per month as a penalty shall be added until the same shall have been paid. All taxes unpaid after the first day of the second month after certification shall be considered delinquent. In effecting collection of any delinquent tax, the City Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any interest or penalty imposed thereon.
- (4) Appeals shall be made to the Board of Revision and Appeal as provided in Section 25(F). In no case shall the supplemental assessment procedure be employed to impose taxes retroactively. 65 Del. Laws, c. 94
- (E) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Seaford to the Superior Court of the State of Delaware in and for Sussex County a petition in which shall be stated:
- (1) the name of the taxable;
  - (2) the year for which the tax was levied;
  - (3) the rate of tax;
  - (4) the total amount due;
  - (5) the date from which interest and the penalty for nonpayment shall commence and the rate of such interest and penalty;



- (6) a reasonable precise description of the lands and tenements proposed to be sold;
  - (7) a statement that a bill of said tax has been mailed to the taxable at his last known post office address with return receipt requested by registered mail;
  - (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.
- (F) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at his last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The City Manager shall exhibit the return registry receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.
- (G) 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 the \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_. The City Manager of the City of Seaford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.
- (H) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Seaford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper published in the City; if, however, there is no newspaper published in the City of Seaford, such notice may be printed in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale, and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.
- (I) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Sussex County at the next term thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.
- (J) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchaser, his personal representatives or assigns, of the costs, the amount of the purchase money and twenty per cent (20%) interest thereon and the expense of having the deed prepared.
- (K) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Seaford, either to the credit of the owner, or in a manner by which the fund may be identified.
- (L) In the sale of lands for the payment of delinquent taxes, reasonable and necessary costs and expenses shall be allowed to be deducted from the proceeds of sale or chargeable against the owner as the case may be. 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. 66 Del. Laws, c. 327
- (M) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.
- (N) If any person is assessed for several parcels of land and tenements in the same assessment in the City of Seaford, the total of said taxes may be collected from the sale of any part or portion of said lands and tenements, provided that 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.
- (O) In the event of the death, resignation or removal from office of the City Manager of the City of Seaford, before the proceedings for the sale of land shall have been completed, his successor in office shall succeed to all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent,

devise, assignment, or otherwise right under him by consent, devise, assignment, or otherwise may refer to the Superior Court of the State of Delaware in and for Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to execute and acknowledge a deed conveying to the petitioner the premises so sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

- (P) The City Manager shall have the same right to require the aid or assistance of any person or persons, in the performance of his duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.
- (Q) The City Manager may, at any time after any tax becomes delinquent, notify the person or corporation by whom any delinquent taxpayer liable for a property or capitation tax, or both, is employed that the tax of such employee is due and unpaid and it shall be the duty of such employer to deduct from the wages of such employee the amount of tax due from such employee and charge the same against him, and if such employer neglects or refuses to comply with such notice within three (3) months from the time of receiving said notice, he shall be personally liable for the taxes of said person so employed by him and the same may be recovered as provided in this section for the recovery from a delinquent taxpayer. When the said taxes are held by such employer he shall pay the same to the City Manager within thirty (30) days thereafter. In no event shall an amount exceeding forty per centum (40%) of the total net wages received by the delinquent taxpayer employee be deducted from the wages of such employee during any particular month.
- (R) At the annual meeting in March of each year, the City Manager shall account to the City Council for all taxes and sewer rentals collected during the year by him and shall be liable on his bond for failure to account for any uncollected taxes or sewer rentals unless he can show to the satisfaction of the Council that all remedies hereinbefore set forth for the collection of such taxes were pursued without result, or, if not pursued, the remedies would have been without avail.
- (S) However, should the City Council so elect, the city manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City 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 a part hereof by reference in the statutes made and provided, substituting the City of Seaford for Sussex County therein. 71 Del. Laws, c. 267
- (T) The provisions of this Section shall apply to all special ad valorem taxes and special taxes levied by the Town Council pursuant to Section 34A, provided that all references to this Section to an Annual Tax List shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the Tax List showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. 76 Del. Laws, c. 44

### **Collection Of Charges Due The City**

#### **Section 27A**

- (a) In the collection of water service charges, electric bills, gas bills, license fees, tapping fees, charges growing out of abatement of nuisances, charges for laying out and repairing sidewalks, front footage assessments, or any other charge due the City and authorized to be levied and charged against the owner or owners of property within the City, the collection thereof shall be under the supervision of the City Manager.
- (b) Any amount assessed by the City against the owner or owners of property within the City in regard to the use of such property for water service charges, electric bills, gas bills, license fees, tapping fees, charges due the City growing out of abatement of nuisances, charges for the laying or repairing of sidewalks, front footage assessments, or any other charge due the City shall be and remain a lien for ten (10) years from the date of assessment of such charge. Such lien shall have priority over any other lien, encumbrance or conveyance, even though such other lien or liens may be of a date prior to the time of attaching of the liens for charges made pursuant to this Section.
- (c) The City Manager shall have the same authorities, remedies and powers with respect to the collection of such charges as are provided for the collection of taxes. 63 Del. Laws, c. 46; 66 Del. Laws, c. 327;

#### **Streets.**

**Section 28.**

- (A) The City 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 they shall deem it for the best interest of the City.
- (B) The procedure to be used to do any of those things heretofore listed shall be as follows:
  - (1) Whenever a property owner in a portion of the City directly affected or abutting on the proposed street to be opened, laid out, changed, altered, or closed, shall, by written petition with each signature duly acknowledged, request the City Council to lay out, locate, or open a new street or to widen or alter an existing street or any part thereof or to vacate or abandon a street or any part thereof, the Mayor of the City of Seaford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of changing the structure of said street in the City. The petition presented to the Council by the property owners shall include a description of property through which the proposed street shall be laid out or a description of the street on which any other of the actions hereinbefore described shall take place and the reasons why the change in the structure of the streets of the City should be undertaken; or the City Council by a majority vote of the elected members thereof may by Resolution propose that a committee of not less than three (3) of its elected members be appointed by the Mayor to investigate the possibility of changing the street structure of the City for any of the reasons hereinbefore set forth.
- (C) Not later than ninety (90) days following its appointment the committee shall submit a report concerning its findings to the Mayor and the City Council. The report shall contain the advantages and disadvantages to the City caused by the changing of the street structure and shall contain the conclusion of said committee either recommending or disapproving the changing of such street structure. If the report of the committee appointed by the Mayor recommends changing the existing street structure of the City of Seaford and a majority of the elected members of the City Council concur therein, the Council by resolution shall propose to the property owners and citizens of the City that the Council proposes to change the street structure by opening a new street or by doing any of those things hereinbefore described to the existing street structure of the City. If the report of the committee appointed by the Mayor is not in favor of changing the existing street structure of the City of Seaford, the resolution proposing the change in the street structure to the property owners and citizens of the City of Seaford shall be passed by a majority of three-fourths of the elected members of the City Council. The resolution shall contain a description of the proposed change and shall fix a time and place for a public hearing on the matter of changing the street structure. The resolution adopted by the City Council shall be printed in a newspaper published in the City of Seaford, or, if no newspaper is published in the City of Seaford, publication may be had in a newspaper having a general circulation in the City, or in the discretion of the City Council, the resolution shall be posted in five (5) public places in the City for at least one week before the time set for the public hearing. The resolution shall also state the hour and place where and when the City Council shall sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property by the proposed change in the existing street structure of the City.
- (D) Whenever the City Council shall have determined to locate or layout or widen any street, lane or alley, and shall have affixed the compensation therefor, it shall be their duty, immediately after the survey and location of said street, lane or alley, to notify by registered letter with return receipt requested, the owner or owners of the real estate through or over which such street, lane or alley may run, of their determination to open or widen the same, and to furnish a general description of the location thereof; also the amount of the compensation or damages allowed to each such property owner, and if such owner be not a resident within the City, to notify the holder or tenant of said real estate and the owner of such property if his address be known; but if there be no holder or tenant resident in said City and the address of the owner be unknown, or if there is a holder or tenant and the address of the owner is unknown, the said notice may be affixed to any part of the premises. If the owner be dissatisfied with the amount of compensation or damages allowed by the City as aforesaid, said property owner may, within ten (10) days after such notice as aforesaid was posted or mailed, appeal from the written notice of assessment or compensation or damages by serving written notice by registered mail with return receipt requested upon the Mayor of the City to the effect that he or she is dissatisfied with the amount of said compensation or damages, and 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 this State who is that time resident in Sussex County for the appointment of such a Commission; and thereupon the said Judge shall issue and appoint a Commission directed to five (5) freeholders of the said County, three (3) of whom shall be residents of the City of Seaford, and two of whom

shall be non-residents of said City, demanding them to assess the damages which the owner of the real estate through or over which the said street, lane or alley shall pass, and who shall have notified the said City Council of their intention to appeal, may incur by reason thereof, and to make return of their proceeding to the said Judge at the time therein appointed.

- (E) The freeholders named in such Commission, being first duly sworn or affirmed, shall view the premises and may, or a majority of them, shall assess the damages as aforesaid, and shall make return, in writing of their proceedings to the said Judge who shall deliver and return to the City 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 City 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 City during the said period of thirty (30) days, then same shall be deposited to his or her credit in the Farmers Bank of the State of Delaware with offices in Georgetown, Sussex County, Delaware, within said time, and thereupon the said property or lands may be taken or occupied for the uses aforesaid.
- (F) If the ascertainment and assessment of damages by the freeholders appointed by the Judge as aforesaid shall be increased, the cost of the appeal shall be paid by the City out of any money in the hands of the City Manager belonging to the City; but if said damages shall not be increased, the cost of the appeal shall be paid by the party appealing. The said freeholder members of the Commission shall receive and be allowed 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 freeholders, the City 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 only, may abandon the proposed improvements.
- (G) In the event that the City Council feels that the damages assessed are not just as being excessive, it may then appeal to the Supreme Court of the State of Delaware. If the owner of the property feels that the damages awarded are inadequate, such owner may appeal to the Supreme Court of the State of Delaware. 66 Del. Laws, c. 327

### **Curbing And Paving.**

#### **Section 29.**

- (A) Whenever the said City Council shall have determined that any paving, graveling, curbing or any or either or all of them shall be done, they shall notify the owner or owners of the land along or in front of whose premises the same is to be done, particularly designating the nature and character thereof, and thereupon it shall be the duty of such owner or owners to cause such paving, graveling and curbing to be done in conformity with said notice. In the event of any owner or owners neglecting to comply with said notice for the space of thirty days, the said Council may proceed to have the same done, and when done the City Manager, shall as soon as convenient thereafter, present to the owner or owners of such lands a bill showing the expenses of such paving, graveling and curbing; if such owner or owners be not resident in the City of Seaford, such bill may be presented to the occupier or tenant of said lands, or if there be no occupier or tenant resident of said City of Seaford, such bill may be sent by mail to such owner or owners directed to him, her or them at the post office nearest his, her or their residences. If such bill be not paid by the owner or owners of such lands within sixty days after the presentation thereof as aforesaid, then it shall be the duty of the said City Council to issue a warrant in the name of the City of Seaford, under the hand of the Mayor of the City and seal of said City, directed to the City Manager of the City of Seaford, commanding him that of the goods and chattels, lands and tenements of such owner or owners, he should cause to be levied and made the amount of said bill, together with all costs. It shall be the duty of the City Manager of the City of Seaford, as soon as convenient after the said warrant shall be delivered to him, and after ten days' notice to the owner or owners of such lands, and after posing five or more notices of sale in at least five public places in the City of Seaford, at least ten days before the day of sale, to sell the goods and chattels of said owner or owners at public auction, or so much thereof as may be necessary to pay the amount of said bill with all costs. If no goods and chattels of such owner or owners can be found within said City sufficient to satisfy the amount of said bill with all costs, then it shall be the duty of the said City Manager of the said City of Seaford, after ten days notice to such owner or owners as aforesaid, and after posting five or more notices of sale in at least five public places in the City of Seaford, for at least ten days before the day of sale, and after causing such notice of sale to be published twice in one newspaper printed in the said City of Seaford, or if there be no newspaper printed in the said City of Seaford, then in a newspaper

printed anywhere in Sussex County, to sell the lands and tenements of such owner or owners along or in front of which such paving, graveling and curbing, or either of them, have been done, or so much of said lands and tenements as may be sufficient to satisfy the amount of said bill with costs, and a deed from the City Manager of said City of Seaford shall convey to the purchaser or purchasers of such lands and tenements as full and complete title, in fee simple or otherwise, as if the same were executed by the owner or owners thereof. The claim for paving, graveling and curbing shall be a lien on the premises along or in front of which the said work was done, and shall have priority over any lien, encumbrance or conveyance suffered or made by the owner or owners after the presentation of the said bill as aforesaid; provided that within thirty days after the completion of said improvements a certificate under the corporate seal of the City of Seaford, signed by the Mayor, setting forth the amount of the bill, the date of the completion of the improvements and a description of the property affected by said lien with the name or names of the owner or owners shall be recorded in the office of the Recorder of Deeds at Georgetown, in and for Sussex County; and the record of such certificate or duly certified copy hereof shall be evidence in all Courts of law and equity in this State. Any such lien heretofore acquired shall be continued, provided that a certificate as above described shall be recorded in the said office of the Recorder of Deeds within ninety days after the approval of this Act. It shall be the duty of the City Manager of the City from the purchase money of the said goods and chattels of lands and tenements, sold as aforesaid, to pay all costs arising from the proceeds of said sale to the parties entitled thereto, and to retain for the use of said City the amount of said bills as aforesaid, and the residue of the said purchase money, if any, shall be deposited in the Farmers Bank of the State of Delaware at Georgetown, to the credit of the said owner or owners. The City Manager of the said City shall be entitled to receive five dollars for every sale of personal property under this Section, and ten dollars for every sale of real estate under this Section, together with such additional sum as may be reasonable and proper for the keeping, taking care of such personal property, for selling the same and for advertising all of which shall be part of the costs to be paid out of the purchase money as aforesaid. Any notice, required by this Section, to one co-owner shall be notice to all, and in case no owner shall reside in said City, notice served upon the occupier or tenant shall be sufficient, or if there be no owner, or occupier, or tenant of said premises resident in the City, it shall be sufficient to send notice by mail to any owner or owners of said premises, directed to him, her or them at the post office nearest his, her or their place or places of residence; the provisions hereinbefore contained in this Section shall apply to any order made by the City Council in respect to any pavement, sidewalk or curb heretofore made or done, which the said Council may deem insufficient or to need repairing. The said Council, in addition to the provisions of this Section hereinbefore contained, shall have power and authority to enforce by ordinance, all the requirements of this Section, by imposing such fines and penalties as shall, in the judgment of said Council, be necessary and proper.

- (B) In addition to the remedies herein provided for the collection of bills relative to the curbing and paving of properties, or for the collection of taxes or any other debt or demand due the City of Seaford, it shall be lawful for the City Council in the name of the City of Seaford, to institute an action before any Justice of the Peace of the County of Sussex if the amount of the demand be Five Hundred Dollars or less, or before the Superior Court of the State of Delaware, if the amount of the demand be more than Five Hundred Dollars, and thereupon to obtain judgment for the amount of such demand or debt, and to collect the same in the manner now or hereafter provided for the collection of judgments in the State of Delaware.

### **Condemnations For Public Purposes.**

#### **Section 30.**

The City shall have the power to acquire lands, tenements, property or interests therein, by condemnation for the purpose of providing sites, for public buildings, parks, sewers and for all municipal purposes, whether within or without the limits of the City, the procedure for which shall be substantially the same as herein provided in the case of condemning land for streets and highways, with the necessary changes as to detail.

### **Sewer And Sewer Service Charges.**

#### **Section 31.**

The Council of the City of Seaford shall have the power to impose upon property owners having property connected to and using the City sewer system an annual service charge for such use, and the said City Council is hereby vested with full authority to collect the said sewer charges in any or all of the ways from time to time provided by law for the collection of

municipal taxes. The said service charge shall be collected by City and deposited in a special fund to be used for the payment of interest upon and retirement of sewer bonds and for any maintenance of capital improvements. 62 Del. Laws, c. 290

### **Good Government.**

#### **Section 32.**

That the said Council of the City of Seaford for the good government and welfare of said City, shall have power to make, establish, publish and modify, amend or repeal ordinances, rules, regulations and by-laws for the following purposes: to prevent vice, drunkenness and immorality, to preserve peace and good order; to prevent and quell riots, disturbances and disorderly assemblages; to restrain and suppress disorderly and gaming houses and houses of ill fame; all instruments and devices for gaming, and to prohibit all gaming and fraudulent devices; to prohibit, restrain and regulate all sports, exhibitions of natural and artificial curiosities, moving pictures, merry-go-rounds, caravans of animals, theatrical exhibitions, circuses or other public performances and exhibitions for money, and fix the sum to be paid for such licenses to the City; to ascertain and establish the boundaries of all streets, avenues, highways, lanes and alleys in said City, and prevent and remove all encroachments on said streets, avenues, highways, lanes or alleys; to regulate, clean and keep in repair the streets, highways, avenues, parks, lanes and alleys, wharves and docks in said City; to prescribe the manner in which corporations or persons shall exercise any privilege granted to them in the use of any street, avenue, highway, lane or alley in said City, or in digging up any street, avenue, highway, lane or alley for the purpose of laying down pipes, or for any other purpose whatsoever, and to prohibit and prevent any such use or work at such times and seasons of the year as they may designate; to direct and regulate the planting, rearing, trimming and preserving of ornamental shade trees in the streets, avenues, parks and grounds of said City and to authorize or prohibit the removal or destruction of such shade trees, and to enforce the removal of snow, ice or dirt from the sidewalks and gutters by the owner or occupants of the premises fronting thereon; to level, grade, flag or re-flag, curb or re-curb, gutter or re-gutter, pave or re-pave, macadamize, gravel, or shell the streets, avenues, highways, lanes and alleys of said City, and the sidewalks and gutters thereof, or any of them, or any parts or sections of the same, and to prescribe the manner in which any such work shall be performed; to direct the digging down, draining, filling up or fencing of lots, pieces or parcels of ground in said City, which shall be by said City Council deemed dangerous or unwholesome, or when such digging down, draining, filling up or fencing shall be deemed necessary, to carry out any improvement authorized by this Act, to prescribe the manner in which said work shall be performed and to cause the expenses thereof to be assessed on such lots, tracts, pieces or parcels of ground, whether improved or unimproved, and to determine the time and manner in which such assessment shall be collected; to prevent or regulate the erection of any porch, step, platform, or bay window, cellar door, gate, aerie, descent into a cellar or basement sign or any post or erection, or any projection or otherwise, in, over or upon any street, sidewalk, lane, alley or avenue, and to remove the same where already erected, at the expense of the owner or occupant of the premises; to regulate, protect and improve the public grounds of said City; to provide lamps and to light the streets and public places of every description in said City; to make and regulate wells, pumps, aqueducts and cisterns in the public streets; to restrain the running at large of horses, cattle, swine, goats, and other animals, geese and other poultry, and to authorize the impounding and sale of the same, for the penalty incurred, and the cost of keeping, impounding and sale; to regulate and prevent the running at large of dogs; to authorize the destruction of dogs running at large, and to impose taxes on the owners of dogs; to locate, regulate and remove slaughter houses and hog pens, privies and water closets; to prescribe and regulate the places of vending and exposing for sale wood, hay, straw and other articles from wagons or other vehicles, to regulate or prohibit any practice having a tendency to frighten animals or to annoy persons passing in the streets or on the sidewalks in said City; to restrain drunkards, vagrants, mendicants and street beggars; to prescribe the manner in which all contracts for performing work or furnishing materials for the City shall be made and executed; to abate or remove nuisances of every kind, at the expense of those maintaining the same, and to compel the owner or occupant of any lot, house, building, shed, cellar, or place wherein may be carried on any business, or calling, or in or upon which there may exist any matter or thing, which is or may be detrimental in the opinion of the Council or local Board of Health to the health of the inhabitants of the City, to cleanse, remove or abate the same, under the directions of the Council.

To regulate and control the manner of building or materials used there in or removal of dwelling houses or other buildings, and to provide for granting permits for the same; to establish a building line for buildings hereafter to be erected; provided that such building line for buildings shall not be established more than twenty feet back from the front line of the lots. To exempt from taxation for municipal purposes for a period not to exceed ten years any economic development projects which may hereafter be located in said City of Seaford, To prohibit within certain limits to be from time to time prescribed by ordinances, the building or erection of stables; to regulate the construction of chimneys, to compel the sweeping thereof, to prevent the setting up or construction of furnaces, stoves, boilers, ovens or other things in such manner as to be dangerous, to prohibit the deposit of ashes in unsafe places, to authorize any City Officer or person whom

they may designate for that purpose, to enter upon and inspect any place or places for the purpose of ascertaining whether the same is or are in a safe condition, and if not, to direct or cause the same to be made so; to compel the erection or maintenance of proper and adequate fireescapes on all public buildings; to regulate or prohibit the carrying on of manufactories dangerous in causing or promoting fires; to regulate or prohibit the manufacture, sale or use of fire-works, and the use of fire-arms in said City; to regulate or prohibit the use of candles and lights in barns, stables and other buildings. To establish, regulate and control a suitable sewer and drainage system for said City; to regulate or prohibit swimming or bathing in the river in front of or contiguous to said City; or in the water within the limits of said City; to provide sanitary measures for the health of the citizens, and to prevent the introduction of infectious or contagious diseases; for which purpose their jurisdiction shall extend to any distance within one mile of the limits of said City. The City Council shall have power to enact ordinances not in conflict with the laws of the State of Delaware, as it may deem necessary and beneficial for the safety, regulation and control of pedestrians, automobiles and animal driven traffic over the streets, to define, prevent and abate nuisances within the City and the use of the streets in connection with the operation of public utilities outside of the City, to levy and collect taxes on gas and water mains, underground conduits, telephone, telegraph, electric current or other poles or erections of like character in the said City, together with the wires thereon strung and to this end may at any time direct the same to be included in or added to the City Assessment with the authority of Council to cause such mains, conduits, poles and wires to be removed and suit to be instituted to collect the taxes so levied, in the event the owner or lessees thereof refuse or neglect to pay such taxes; Council may enact ordinances to prevent, abate or regulate electrical or other interferences with radio reception in said City. Council shall have power upon inspection to condemn any existing building or structure that it deems to be a fire menace and to cause same to be torn down or removed. To contract with or to grant franchises, concessions or rights of any person, persons, firm, partnership or corporation who may apply for the privilege of erecting wharves or piers, or for the use of any street, highway, avenue, lane, alley or other City property, for the construction and operation of steam, motor or electric railways, electric light power and water plants and distribution system.

To make and establish rules and regulations by ordinance or resolution for manufacture and sale of electric current at retail in said City and within one-half mile of the corporate limits thereof, including the establishment of services changes, and to make and establish rules and regulators by ordinance or resolution for the sale of excess electric current at wholesale outside one-half mile of the corporate limits thereof. The City Council shall have the power and authority to adopt an ordinance or resolution, together with such rules and regulations as are necessary and to prescribe such forms as are required in order to provide an exemption from property taxes to residences of elderly persons and to prescribe the conditions of such exemption.

The City Council shall have power and authority to make, establish and publish such ordinances as they may deem beneficial for the good government of the said City at any regular or special meeting. The Council shall have and it is hereby vested with power and authority to prescribe the fines and penalties for violations of any of the provisions of this Act, or of the ordinances which they may enact in pursuance hereof, such fines and penalties which may be imposed, either by this Act or the Ordinances enacted as aforesaid, may be collected before the Mayor, Alderman or any Justice of the Peace of said City, and in default of payment, said Mayor, Alderman, or Justice of the Peace may commit to the City lock-up or to the public jail in Sussex County for any time not exceeding sixty days, or until such fines and costs shall be paid; and all ordinances so made, established and published shall be in full force and effect immediately upon the publication of them by said Council.

All prosecutions for the violation of ordinances shall be before the Mayor, Alderman or before any Justice of the Peace of the State of Delaware, resident in the City of Seaford, and shall be in the name of the State of Delaware.

It shall be the duty of the warden of said Sussex County jail to receive and lock-up in said jail any person committed to his custody under the provisions of this Act, or under the provisions of any ordinance of City Council. The City of Seaford shall pay for the board of all persons committed to jail for violations of the Charter or Ordinances of the City of Seaford.

The fees for the arresting officers and the appropriate officer before whom the trial is conducted shall be the same as are at present allowed to Constables and Justices of the Peace of Sussex County. 57 Del. Laws, c. 441; 60 Del. Laws, c. 71; 73 Del. Laws, c. 64; 80 Del. Laws, c. 272

### **Use Of Town Money.**

#### **Section 33.**

The City Council shall have the power and authority to use the money in the treasury of said City, or of any portion thereof, for the improvement, benefit, protection, ornament, and the best interest of the said City as it may deem advisable and to use the City money to accomplish and carry into effect all acts and things which it has power to do by virtue of the Constitution, Laws of Delaware, this Act and all lawful ordinances and resolutions of Council. In the general performance of

their duties the acts, doings and determination of a majority of the Council of said City shall be as good and binding as the acts, doings and determination of the whole. In case of vacancy or vacancies in the City Council, the remaining members, until such vacancy or vacancies shall be filled as hereinbefore provided, shall have the same power and authority as the whole. A majority of the Council shall constitute a quorum for the transaction of business.

- (A) The City Council is hereby enjoined to set aside one (1) per cent of the net receipts received from the sale of electricity as a reserve fund to be held in trust to be used solely for the expansion, replacement, rebuilding or improvement of the electrical transmission system; provided, however, that after the said reserve fund shall have reached the amount or value of One Hundred Thousand Dollars (\$100,000), it will no longer be mandatory to add to the reserve fund until the reserve fund falls below the amount of One Hundred Thousand Dollars (\$100,000).
- (D) The City Council of Seaford is hereby authorized to invest and re-invest any sums of money held in either of the reserve funds above indicated from time to time in any investments which are permitted to trustees under the statutes of the State of Delaware or the rules of the Court of Chancery of this State pertaining to trusts. 56 Del. Laws, c. 56

### **Obstructions, Nuisances And Unsanitary Conditions.**

#### **Section 34.**

The City Council shall have power and authority to enact ordinances or adopt resolutions to define, prevent, abate and remove all obstructions, nuisances and unsanitary conditions at any time existing or deemed to be contemplated by any property owner or tenant or any property owner thereof whether in the street, square, lane or alleys, or on the sidewalks or any other public or private place within the limits of said City either on its own inspection, or upon written complaint of any citizen of the City, stating the character and location of the obstruction, nuisances or unsanitary conditions, and signed by the citizen making the complaint. If a majority of the elected members of the City Council either upon inspection or upon such information, or both, shall determine that such obstruction, nuisance or unsanitary condition exists and ought to be removed or abated, as the case may be, the City Council shall enact an ordinance or adopt a resolution, or both, appropriate to the contemplated or existing commission and the City Council shall thereupon give notice in writing by registered mail with return receipt requested, signed by the Mayor to the person or persons contemplating or causing such obstruction, nuisance or unsanitary condition, or to the person or persons who are responsible for its existence or continuance, to remove or abate the same and if such person or persons refuse or neglect for the space of two (2) days to take steps to abate or remove the stated condition after such notice is received, Council shall have the power and authority to cause such obstruction, nuisance or unsanitary condition to be removed or abated; and for this purpose Council may issue a warrant in the name of the City of Seaford, under the hand of its Mayor, and the Seal of the City, and directed to any Constable of Sussex County, commanding him forthwith to abate such obstruction, nuisance or unsanitary condition, whereupon the Constable to whom said warrant may be delivered shall forthwith proceed to remove or abate the same and for such purpose he shall have full power and authority to enter into and upon any lands and premises in said City, and to take with him such assistance, implements, horses, carts, wagons, automobiles, trucks, or other things, as may be necessary and proper, and to do and perform all matters and things right, proper and necessary to be done for the removal or abatement of such obstruction, nuisance or unsanitary condition. The costs of all the necessary work, labor and proceedings of the City in the removal or abatement of such obstruction, nuisance or unsanitary condition shall be determined by Council upon the completion of the work, and if such amount be not paid to the City Manager, for the use of the City, by the person or persons causing or responsible for such obstructions, nuisance or unsanitary condition, within ten days after a bill stating the amount of such costs is presented or mailed to such person or persons, at their last and best known post office address, then Council may proceed to collect the same out of the goods and chattels, lands and tenements, of such person or persons, and it shall be the duty of Council to issue a warrant in the name of the City of Seaford under the hand of the Mayor, and the Seal of the City, directed to the Alderman or any Justice of the Peace of the City, commanding him that of the goods and chattels, land and tenements of such person or persons he shall cause to be levied and make the amount of said bill, together with all costs. It shall be the duty of the Alderman or a Justice of the Peace as soon as convenient thereafter, and after ten days written notice to such person or persons, deposited in the mails and directed to such person or persons at his or their last and best known post office address, and after posting five or more notices of sale in at least five of the most public places in said City at least ten days before the day of sale, to first sell the goods and chattels of such person or persons at public auction in said City, or so much thereof as may be necessary to pay the amount of said bill with all costs. If no goods or chattels of such person or persons can be found in said City, or the goods and chattels found and sold as aforesaid be not sufficient to satisfy the amount of said bill, with all costs, then it shall be the duty of the said Alderman or Justice of the Peace, after further notice of ten days, given to said person or persons in the same manner as aforesaid, for the sale of goods and chattels, and after posting five or more notices of sale in at least



five of the most public places in said City, for at least ten days before the day of sale, and after causing such notice of sale to be published once, in a newspaper published in Sussex County, to sell the land and tenements of such person or persons, or so much thereof as may be sufficient to satisfy the amount of said bill and all costs, and a deed from the Alderman or Justice of the Peace of said City shall be made and shall convey to the purchaser or purchasers of such lands and tenements as full and complete title, in fee simple or lesser estate, as if same were executed by the person or persons whose lands and tenements were sold as aforesaid. The claim for the expenses of the City in removing or abating such obstruction, nuisance or unsanitary condition, and all costs, shall be a lien on the premises where such obstruction, nuisance or unsanitary condition exists, and said lien shall relate back to the time when the first notice to remove or abate shall have been served upon such person or persons and shall have priority over any lien, encumbrance or conveyance suffered or made by such person or persons after the mailing of said notice. It shall be the duty of the Alderman or Justice of the Peace, out of the purchase money from the sale of said goods and chattels, or lands and tenements, to pay all costs arising from said proceedings and sale to the parties entitled to such costs, to retain and pay to the City Manager, for the use of the City, the amount of the said bill to the City, and the residue of said purchase money, if any, shall be at once deposited in some bank in the City of Seaford to the credit of the owner or owners of said goods and chattels, or lands and tenements. The Alderman or Justice of the Peace shall be entitled to receive ten dollars for every sale of personalty under this Section and twenty dollars for every sale of real estate under this Section, together with such additional sum as may be allowed by Council for the keeping and care of such personal property, for selling the same, and for said advertising, all of which shall be a part of the costs aforesaid to be paid out of the purchase money. Any notice required by this Section to one co-owner shall be notice to all, and in case of no owner shall reside in said City, said written notice deposited in the mail in a sealed envelope and addressed to such owner at his or her last best known post office address shall be deemed proper notice. Council in addition to the provisions of this Section by imposing such fines and penalties as shall be, in the judgment of Council, necessary and proper which shall be additional to the said expenses and costs of removal or abatement. For all the purposes of this Section, any property, whether dwelling, storehouse, or both, or otherwise, which does not have proper connections with the sewer system of the said City, if such sewer connections be available for such property, shall be deemed to be in an unsanitary condition under the meaning of this Section, at the discretion of the Council.

### **Power To Borrow Money And Issue Bonds.**

#### **Section 35.**

The City Council may borrow money and issue bonds or certificates of indebtedness to secure the payment thereof on the faith and credit of the City of Seaford, to provide funds for the erection, the extension, the enlargement, the 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 or improvements of highways, streets or lanes, or the paving, curbing or erection of gutters along the same; for the construction or repair of sewers or sewage disposal equipment; or to defray the cost or the share of the City of the cost of any permanent municipal improvements; provided, however, that the borrowing of the money therefor shall have been authorized by the City Council and shall have been approved by the electors in the manner and at the time following:

- (A) Council by resolution shall propose to the electors of the City by resolution that the state amount of the money shall be borrowed for any of the above purposes. The resolution shall state the amount of the money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and other pertinent facts relating to the loan which are deemed pertinent by the City Council and in their possession, and shall fix a time and place for hearing on the said resolution.
- (B) Notice of the time and place of the hearing on the resolution authorizing said loan shall be printed in a newspaper published in the City and or distributed in circular form at least one week before the time set for said hearing.
- (C) A second resolution shall then be passed by Council ordering a special election to be held not less than thirty days and not more than sixty days after said hearing to borrow the said money, for the purpose of voting for or against the proposed loan. The passing of the second resolution calling the special election shall ipso facto be considered Council's determination to proceed in the matter in issue.
- (D) The notice of the time and place of holding the said special election shall be printed in two issues of a newspaper in the City within thirty days prior to the election, and or distributed in circular form at least fifteen days prior to the election or both at the discretion of the Council.
- (E) At the Special Election, every owner of property, whether an individual, partnership or corporation, shall have one vote and every person who is a bona fide resident of The City of Seaford, but who is not an owner of property within the corporate limits of The City of Seaford shall have one vote. All votes may be cast either in

person or by proxy. Any Special Election held pursuant to the provisions of this Section may be conducted by paper ballot or through the use of voting machines. The polling place shall be opened from 7:00 a.m. prevailing time, until 3:00 p.m. prevailing time, on the date set for the Special Election. Absentee voting shall be permitted in conformity with Chapter 75 of Title 15 of the Delaware Code. 80 Del. Laws, c. 272

- (F) The Council shall cause to be prepared, printed and have available for distribution a sufficient number of ballots at not less than five days prior to the date of the special election.
- (G) The Board of Election shall count the votes for and against the proposed loan; and shall announce the result thereof; shall make a certificate under their hands of the number of votes cast for and against the proposed loan, and shall deliver the same to the Council, which said certificates shall be entered on the minutes of the Council, and the original shall be filed with the papers of the Council.

The form of bond or certificate of indebtedness, the interest rate, the time or times of payment of interest, the classes, the time or times of maturity, provisions as to registration, any callable or redeemable provision, the denomination and name and other relative or pertinent matters shall all be determined by Council after said Special Election. The bond or bonds or certificate or certificates of indebtedness may be sold at either public or private sale. The Council shall provide in its budget, and in fixing the rate of tax, for the payment of interest and principal on said bonds at the maturity or maturities thereof, and may establish a sinking fund therefor. The faith and credit of the City of Seaford shall be deemed to be pledged for the due payment of the bonds and interest thereon issued under the provisions hereof, when the same have been properly executed and delivered for value. 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 the principal of any bonded indebtedness whether hereinbefore or hereafter incurred. 61 Del. Laws, c. 451

The bonded indebtedness shall not at any time exceed in the aggregate the total sum Twenty-five (25) percent of the value of the real property situate within the limits of the City as shown by the last assessment preceding the creation of the said indebtedness. 62 Del. Laws, c. 290

In the event the City of Seaford should construct or acquire any plant, machinery, appliances, or equipment for the supply of electricity for gas, heat or power purposes, authority is hereby granted the City of Seaford to furnish electricity or gas for light, heat, or power purposes at retail within said City and within one-half mile of the corporate limits thereof, and to sell excess electric current at wholesale outside one-half mile of the corporate limits thereof, provided that the furnishing of said service will not incur indebtedness in excess of the bonded limit of said City and to do all things necessary to carry out this authority. 73 Del. Laws, c. 64

- (H) All provisions of this Section and any other Section of this Charter limiting the amounts of indebtedness to be incurred or taxes to be levied by the City Council shall not apply to any indebtedness incurred or any special ad valorem taxes, special taxes, or ad valorem taxes levied pursuant to or in connection with Section 37A of this Charter. **76 Del. Laws, c. 44**

#### **Power To Issue Revenue Bonds**

#### **35A.**

- (a) The City Council, in addition to the power set forth in §35 of this Charter to borrow money and issue the bonds, shall have the authority to borrow money and issue bonds or certificates of indebtedness and to secure the payment thereof by pledging the revenues derived from the operation of any project for which the bonds are issued pursuant to this Section.
- (b) The funds derived from the sale of bonds issued pursuant to this Section may be used for any or all of the following purposes, including incidental expenses incurred in connection therewith:
  - (1) For the erection, the extension, the enlargement, the purchase or the repair of any plant, machinery, appliances or equipment for the supply or manufacture and distribution of electricity or gas for light, heat, or power purposes;
  - (2) For the furnishing of water to the public;
  - (3) For the construction or repair of sewers or sewage disposal equipment;
  - (4) For the defraying of the cost or the share of the City of the cost of any permanent municipal improvement;
  - (5) For the purchase of land in the planning and development, including construction, erection or installation of buildings for an industrial complex when the land or buildings, or both, at the discretion of the City Council may be sold or leased by the City to private enterprise where such buildings are all purpose buildings

suitable for sale or rental for general manufacturing use or office use or general retail use or any combination thereof;

- (6) For the acquisition, construction, reconstruction, repair, alteration, improvement, extension, financing or refinancing of any facility, activity or enterprise, whether conducted on a for-profit or not-for-profit basis, and including working capital for any such facility, activity or enterprise provided that the project requires a minimum capital investment of Five Hundred Thousand Dollars (\$500,000) that the issuance of such bonds pursuant to the provisions of this paragraph shall not constitute a debt of the City of Seaford nor a pledge of its credit or taxing power, and that the said bonds shall contain on the face thereof a statement to the following effect:

Neither the faith and credit nor the taxing power of the City of Seaford is pledged to the payment of the principal, premium, if any, or interest on this Bond, nor is the City of Seaford in any manner obligated to make any appropriation for payment thereof. 67 Del. Laws, c. 312

- (7) For the refunding from time to time of any bonds issued pursuant to the provisions of this Section by the issuance of new bonds, whether the bonds to be refunded have or have not matured, or be subject to redemption, and may issue bonds then outstanding in amounts sufficient to provide:

- (A) The principal amount of the obligations being refunded;
- (B) Any applicable redemption premiums thereon;
- (C) Unpaid interest on such obligations to the date of delivery of the refunding bonds and interest to accrue on such obligations being refunded from the date of delivery of the refunding bonds to the first of any subsequently available redemption date or dates selected by the City Council; and
- (D) Any expenses, including bond discount, deemed by the City Council to be necessary for the issuance of the refunding bonds. The proceeds of the sale of any refunding bonds shall be applied as follows, either:
  - (1) To the immediate payment and retirement of the obligations being refunded; or
  - (2) If not required for the immediate repayment of the obligations being refunded, such proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded, but provisions may be made for the pledging and disposition of any amount in excess of the amounts required for such purposes, including, without limitation, provision for the pledging of any excess amounts to the payment of the principal of and interest on any portion of such refunding bonds or series of such refunding bonds issued for the purpose of providing amounts in addition to the principal amount and the premium payable with respect to the outstanding obligations to be refunded.

- (c) All bonds issued pursuant to this Section shall be deemed to be legal investments by any bank, trust company, insurance company, executor, administrator, curator, trustee or any other fiduciary.
- (d) At its discretion, the City Council may dispose of any real property and any personal property acquired by the issuance of bonds pursuant to this Section to a private individual, firm or corporation at public or private sale, for cash or on credit, and under such other terms and conditions as the City Council may deem to be in the best interest of the City without regard to any other provision of this Charter; provided, however, that the revenue received from any such disposition shall be used to retire any outstanding bonds and if no bonds which are issued pursuant to this Section are outstanding, the revenue derived from such disposition may be used for any municipal purpose.
- (e) Any property acquired by The City of Seaford from the proceeds of bonds issued pursuant to this Section shall be exempt from taxation by the State of Delaware or any political subdivision thereof.
- (f) The interest on any bonds issued pursuant to this Section shall be exempt from all taxation by the State of Delaware or by any political subdivision or agency thereof.
- (g) There shall be no limitation on the amount of bonds to be issued pursuant to this Section and the indebtedness created by any bonds issued pursuant to this Section shall not be used in computing the maximum bonded indebtedness which may be created by the City pursuant to §35 of this Charter nor shall the City Council be required to levy taxes to pay the principal of or interest on any bonds issued pursuant to this Section.
- (h) The bonds to be issued pursuant to this Section shall be authorized by resolution of the City Council and shall bear such date or dates, mature at such time or times not exceeding forty (40) years from their respective dates, bear interest at a rate or rates per annum as may be determined by the City Council, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places and be

subject to such terms of redemption, as such resolution or resolutions may provide. Bonds of The City of Seaford issued by the City Council pursuant to the provisions of this Section may be sold at either public or private sale at such place and interest rates as may be determined by the City Council.

- (i) Any resolution or resolutions authorizing any bonds securing any issue or bonds may contain provisions which shall be part of a contract with the holders of the bonds thereby authorized, as to:
  - (1) Pledging all or any part of the monies, earnings, income and revenues derived from the undertaking for which the bonds are issued to secure the payment of the bonds or of any issue of the bonds subject to such agreements with bondholders as may then exist;
  - (2) The rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;
  - (3) The setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;
  - (4) Limitations on the right of the City Council to restrict and regulate the use of the activity or property in connection with which such bonds are issued;
  - (5) Limitations on the purposes to which and the manner in which the proceeds of sale or any issue of bonds may be applied;
  - (6) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the refunding of outstanding or other bonds;
  - (7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;
  - (8) The creation of special funds into which any earnings or revenues of the City may be deposited;
  - (9) Vesting in trustee or trustees such properties, rights, powers and duties in trust as the City Council may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this Section and limiting or abrogating the right of bondholders to appoint a trustee under such Section or limiting the rights, duties and powers of such trustee;
  - (10) Defining the acts or omissions to act which shall constitute a default in the obligation and duties of the City Council to the bondholders and providing the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided however, that such rights and remedies shall not be inconsistent with the general laws of this State and any other provisions of this Charter;
  - (11) Any other matters of like or different character which in any way affect the security or protection of the bonds;
  - (12) The obligations of the City Council in relation to the construction, maintenance, operation, repairs and insurance of the property, the safeguarding and application of all monies and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;
  - (13) Any other matter or course of conduct which by recital in a resolution or resolutions is declared to further secure the payment of the principal of or interest on the bonds.
- (j) Neither the Mayor nor any member of the City Council of The City of Seaford nor any person executing the bonds or other obligations shall be personally liable on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.
- (k) The City Council shall have the power out of any funds available therefor to purchase (as distinguished from the power of redemption hereinabove provided) any bonds issued pursuant to this Section or which may be assumed by the City Council at a price of not more than the principal amount thereof and accrued interest and all such bonds shall be cancelled.
- (l) In the discretion of the City Council, the bonds may be secured by a trust indenture by and between The City of Seaford and a corporate trustee which may be any trust company or bank having the powers of a trust company within the State of Delaware. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the City Council in relation to the construction, maintenance, operation, repair, insurance of the properties, and the custody, safeguarding and application of all monies, and may provide that the property shall be constructed and paid for under the supervision and approval of consulting engineers. The City Council may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues of the properties to the trustee under such trust indenture or other

depository, and for the method of disbursement thereof, or such safeguards and restrictions as the City Council may determine. All expenses incurred in carrying out the provisions of such trust indenture may be treated as a part of the cost of maintenance, operation and repair of the properties. If the bond shall be secured by trust indenture, the bondholder shall have no authority to appoint a separate trustee to represent them. Notwithstanding any other provisions of this Section, any resolution or resolution authorizing bonds or notes of the City pursuant to the provisions of this Section shall contain a covenant by the City Council that it will at all times maintain rates, fees, rentals and/or other charges sufficient to pay, that any contracts entered into by the City Council for the use of any properties shall contain rates, fees, rentals or other charges sufficient to pay the cost of operation and maintenance of the properties the principal of and interest on any obligations issued pursuant to such resolution or resolutions as the same severally become due and payable and to maintain any reserves or other funds required by the term of such resolution or resolutions.

- (m) In the event that the City of Seaford shall default in the payment of principal of or interest on any issue or bonds after the same shall have become due, whether out of maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that The City of Seaford shall fail or refuse to comply with the provisions of this Section or shall default in any agreement made with the holders of any issue or bonds, the trustee appointed by the City Council or if none has been appointed, the trustee who may be appointed by holders of twenty-five percent (25%) in aggregate principal amount of the bonds of such issue then outstanding by instrument or instruments filed in the Office of the Recorder of Deeds, in and for Sussex County, approved or acknowledged in the same manner as a deed to be recorded shall represent the holders of such bonds for the purposes stated in this Section. Such trustee may and upon written request of the holders of twenty-five percent (25%) of principal amount of such bonds then outstanding shall in his or its own name:
  - (1) By mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require The City of Seaford to collect revenues, rates, rentals, fees and other charges adequate to carry out any agreement as to, or pledge of such revenues, rates, rentals, fees and other charges and to require The City of Seaford to carry out any other agreements with the holders of such bonds and to perform its duties pursuant to the provisions of this Section;
  - (2) Bring suit upon such bonds;
  - (3) By action of suit in equity require that The City of Seaford to account as if it were the trustee of an express trust for the holders of such bond;
  - (4) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds.
- (n) Any suit, action or proceeding by the trustee on behalf of bondholders shall be heard or maintained in a Court of competent jurisdiction.
- (o) Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty (30) days notice in writing to The City of Seaford.
- (p) Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as a right to the appointment of a receiver for any property for which the revenues are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the properties and subject to any pledge or agreement with bondholders shall take possession of all monies and properties derived from such part or parts of the properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection herewith which The City of Seaford is under an obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of The City of Seaford under the direction of the Court. In any suit, action or proceeding by the trustee, fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the Court shall be a first charge on any revenues derived from the properties.
- (q) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights. 62 Del. Laws, c. 367

**Section 36.**

(A) For the purpose of protection against fire, promoting health, safety, morals or the general welfare of the community, the City Council is hereby empowered to adopt ordinances to regulate and restrict the height, number of stores, size of buildings and other structures, the density of population, and the location and use of buildings, structures and lands for trade, industry, residence or other purposes, and this power shall embrace new buildings or additions to or alterations of existing structures of every kind; to condemn buildings or structures, or portions thereof, that constitute a fire menace, and to require or cause the same to be torn down, removed, or so altered as to eliminate the menace of fire; to prescribe the height and thickness of any building and the kind and grade of materials used in the construction thereof.

(B) The City Council in order to avail itself of the powers conferred by this section, shall appoint a commission of not less than three members to be known as the Zoning Commission in accordance with Section 306, Title 22, **Del.C.** of 1953, as amended. The City Council shall further provide for the appointment of a Board of Adjustment which shall consist of the City Manager, the Mayor and the City Solicitor or as provided in 22 **Del.C.** Section 322. The Board shall have all the powers and shall be bound by the same procedure as set forth in Sections 321 through 330 inclusive, Title 22, **Del.C.** of 1953, as amended. Should any amendment be made to 22 **Del.C.** 306 or 22 **Del.C.** Sections 321 through 330 inclusive by the General Assembly, the Charter of the City of Seaford shall be deemed amended in order to comply with such amendments.

Upon the passage of this act, before any building or structure of any kind, or alteration or additions to any building constructed in the City of Seaford be made, a permit must be secured from the City Manager. The City Council is hereby empowered to enact ordinances establishing fees in relation thereto sufficient only to defray the costs in all actions taken pursuant to this Section.

(C) Any person or persons, jointly or severally aggrieved by any decision of the Board of Adjustment may appeal the decision of the Board of Adjustment to the City Council by presenting a petition, duly verified, setting forth the basis for such appeal to the Secretary of the City Council. Such petition and appeal shall be presented to the Secretary of the City Council within thirty (30) days after the filing of the decision of the Board of Adjustment. Upon presentation of the petition, the Secretary of the City Council shall direct the Board of Adjustment to forward to the City Council the entire record of the proceeding before the Board of Adjustment, including all exhibits. The record of the Board of Adjustment, including all exhibits, shall be forwarded to the Secretary of the City Council within (20) days following notice received by the Board of Adjustment from the Secretary of the City Council. The City Council shall consider the matter in open session on the record made before the Board of Adjustment and shall render its decision within a reasonable time. It shall be the duty of the City Council to sustain the decision of the Board of Adjustment if there is evidence to support the decision of the Board of Adjustment. All decisions of the City Council shall be in writing. The City Council may reverse or affirm, wholly or partly, or may modify the decision of the Board of Adjustment. Any person or persons, generally or severally, aggrieved by a decision of City Council may appeal that decision to the Superior Court by a petition duly verified, setting forth that such decision is illegal, in whole in part, specifying the grounds of illegality. Such petition shall be presented to the Court within thirty (30) days following the filing of the decision of the City Council. Upon presentation of the petition, the Court may allow a Writ of Certiorari directed to the City Council to review such decision of the City Council and shall prescribe therein the time within which a return thereto must be made and served, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the City Council and on due cause shown, grant a restraining order. The Court may reverse or affirm wholly or partly, or may modify the decision brought up for review. 64 Del. Laws, c. 56; 66 Del. Laws, c. 327;

**Floating Debt.****Section 37.**

The City Council of the City of Seaford shall have full power and authority to anticipate revenue by borrowing upon the faith and credit of The City of Seaford the sum or sums of, not exceeding Two Million Dollars (\$2,000,000) in any one fiscal year, when, in the opinion of the majority of the said City Council, the needs of the City of Seaford demand it. The City Council may secure such sum or sums of money so borrowed by promissory notes of the City executed by the Mayor and attested by the Secretary of City Council, either with or without the corporate seal of The City of Seaford affixed as is requested by the Bank or persons advancing the money on said notes, and no officer or Councilman shall be personally liable for the payment of such note because it is signed by them as officers or Councilmen of The City of Seaford, and is

authorized by the Resolution of the City Council; provided, however, that any sum of money borrowed on the faith and credit of The City of Seaford, as aforesaid, in any fiscal year, shall be paid out of the general funds of the City at the minimum rate of ten per centum (10%) per fiscal year and shall be completely paid at the end of ten (10) fiscal years following the first fiscal year which said money was borrowed with the interest thereon, and no part of the principal of nor the interest on any borrowing authorized by this Section shall be taxable by the State of Delaware nor any political subdivision thereof. 58 Del. Laws, c. 387; 60 Del. Laws, c. 516; 64 Del. Laws, c. 4; 76 Del. Laws, c. 44;

#### **Notice Of Action**

#### **Section 37A. Tax Increment Financing and Special Development District.**

In addition to all other powers, the City Council may have, and notwithstanding any limitation of law, the City Council shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with Chapter 17, Title 22 of the Delaware Code, relating to the Municipal Tax Increment Financing Act, and Chapter 18, Title 22 of the Delaware Code, relating to Special Development Districts. 76 Del. Laws, c. 44

#### **Section 37B.**

No action, suit or proceeding shall be brought or maintained against the City of Seaford, the Mayor or the City Council of the City of Seaford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Seaford or any of its departments, offices, agents or employees thereof unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manger in writing of the time, place, cause and character of the injuries sustained. 71 Del. Laws, c. 267; 76 Del. Laws, c. 44;

#### **Survival Of Power And Validating Section.**

#### **Section 38.**

This Act shall operate to amend, revise and consolidate, "An Act Changing the Name of the Town of Seaford to the City of Seaford, and Establishing a Charter Therefor", being Chapter 184, Volume 43, Laws of Delaware, and the various amendments and supplements thereto and to repeal all such parts of said Act and its amendments and supplements as are manifestly inconsistent with the provisions of this Act. All powers conferred upon or vested in the City of Seaford and/or the City Council of the City of Seaford by any Act of Law of the State of Delaware not in conflict with the provisions of this Charter, are hereby expressly conferred upon, and vested in the City of Seaford and/or the City Council of the City of Seaford, precisely as if each of the said powers was expressly repeated in this Charter. All ordinances and resolutions heretofore lawfully enacted or adopted by the City Council of the City of Seaford and in force at the time of the approval of this Charter shall continue in full force and effect until the same or any of them shall be repealed, modified or altered by the City Council of the City of Seaford under the provisions of this Charter; all the acts and doings of the Council of said City or of any officer of said City, lawfully done or performed under the provisions of any law of this State, or of any ordinance of said City, prior to the approval of this Act, are hereby ratified and confirmed; all taxes, debt, fine or penalties and forfeitures due the City of Seaford shall be deemed to be due the City of Seaford, and all debts due from the City of Seaford shall be deemed to be due from the City of Seaford, and the same shall remain unimpaired until paid; and the power, right and authority to collect taxes and rentals imposed under the provisions of this Act, and the processes which may be employed hereunder, shall be deemed to apply and to extend to all unpaid taxes and rentals imposed under the Charter of the City of Seaford; the bonds given by or on account of any official of the City of Seaford shall not be impaired by or affected by the provisions of this Act, but the City of Seaford shall succeed to all the benefits of said bonds; all valid laws heretofore passed relating to or concerning the City of Seaford or authorizing the borrowing of money and the issuing of bonds on the credit of said City shall be and remain valid and good as heretofore, and be unaffected and unimpaired by this Act.

If any part of this Act shall be held unconstitutional, such holding shall not in any wise invalidate the remaining provisions of this Act. This Act shall be deemed and known to be a public act.

Approved May 5, 1961.

53 Del. Laws, c. 42; 53 Del. Laws, c. 332; 55 Del. Laws, c. 41; 55 Del. Laws, c. 99; 56 Del. Laws, c. 56; 57 Del. Laws, c. 316; 57 Del. Laws, c. 380; 57 Del. Laws, c. 441; 58 Del. Laws, c. 28; 58 Del. Laws, c. 196; 58 Del. Laws, c. 387; 58 Del. Laws, c. 586; 59 Del. Laws, c. 283; 60 Del. Laws, c. 71; 60 Del. Laws, c. 111; 60 Del. Laws, c. 516; 61 Del. Laws, c. 259; 61 Del. Laws, c. 289; 61 Del. Laws, c. 451; 62 Del. Laws, c. 290; 62 Del. Laws, c. 367; 63 Del. Laws, c. 46; 63 Del. Laws, c.

343; 64 Del. Laws, c. 4; 64 Del. Laws, c. 56; 65 Del. Laws, c. 21; 65 Del. Laws, c. 94; 65 Del. Laws, c. 97; 65 Del. Laws, c. 248; 65 Del. Laws, c. 249; 66 Del. Laws, c. 19; 66 Del. Laws, c. 327; 67 Del. Laws, c. 31; 67 Del. Laws, c. 312; 68 Del. Laws, c. 127; 68 Del. Laws, c. 186; 71 Del. Laws, c. 267; 73 Del. Laws, c. 64; 75 Del. Laws, c. 394; 76 Del. Laws, c. 44; 76 Del. Laws, c. 153; 77 Del. Laws, c. 297; 80 Del. Laws, c. 101; 80 Del. Laws, c. 272;