



SPONSOR: Rep. Shupe & Rep. Longhurst & Sen. Wilson

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 459

AN ACT TO AMEND THE CHARTER OF THE TOWN OF ELLENDALE.

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

1           Section 1. Amend the Charter of the Town of Ellendale by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3           **Section 1.**

4           The inhabitants of the Town of Ellendale, in the County of Sussex, State of Delaware, are hereby constituted a  
5 municipal corporation and body politic. The name and style of said corporation shall be "The Town of Ellendale."

6           The boundaries of The Town of Ellendale are hereby established and declared to be as follows:

7           ALL THAT certain tract, piece and parcel of land, lying and being in Sussex County, and the State of Delaware,  
8 and more particularly described as recorded at the Sussex County Recorder of Deeds follows, to-wit:

9           "~~BEGINNING at a set concrete monument on the easterly right of way line of County Route 213, at 40 feet wide,~~  
10 ~~and distant the following two bearings and distances from a found P. K. nail at the intersection of the physical centerlines of~~  
11 ~~Main Street (State Route 16) and Conrail:(1) North 05 degrees 00 minutes East 1,200.00 feet; and (2) North 85 degrees 00~~  
12 ~~minutes West 1,700.06 feet; thence running from said beginning point South 05 degrees 00 minutes East 2,900.07 feet to a~~  
13 ~~set P. K. nail; thence running South 05 degrees 00 minutes West 2,400.00 feet to a set concrete monument; thence running~~  
14 ~~North 85 degrees 00 minutes West 2,944.24 feet to a set iron pipe on the easterly right of way line of County Route 213, at~~  
15 ~~50 feet wide; thence proceeding along said right of way line of County Route 213 North 06 degrees 27 minutes East~~  
16 ~~1,196.34 feet to a point in the physical centerline of Main Street (State Route 16); thence following said centerline of Main~~  
17 ~~Street North 85 degrees 08 minutes 06 seconds West 5.01 feet to a point; thence finally running with the easterly right of~~  
18 ~~way line of County Route 213, at 40 feet wide North 05 degrees 54 minutes East 1,204.20 feet to the place of beginning,~~  
19 ~~containing 160.841 acres of land, more or less."~~

20           **General Powers**

21           **Section 2.**

22 (A) The inhabitants of the Town of Ellendale, within the limits and boundaries referred to in Section I of this Act,  
23 or within the limits and boundaries hereafter established, shall be and they are hereby created a body politic and corporate  
24 in Law and Equity by the Corporate name of "The Town of Ellendale," hereinafter called The Town, and under that name  
25 shall have perpetual succession; may have and use a corporate seal, which may be altered, changed or renewed at pleasure;  
26 may sue and be sued, plead and be impleaded in all Courts of law and equity in the State of Delaware, and elsewhere, by  
27 said corporate name, may hold and acquire by purchase, gift, devise, lease or by condemnation real property and personal  
28 property within or without its boundaries for any municipal purposes, in fee simple or for lesser estate or interest, and may  
29 sell, lease, hold, manage and control such property as its interest may require, subject however to other sections of this Act.

30 As hereinafter provided in Section 20 of this Charter relating to power to issue Bonds, the Town shall have all  
31 other powers and functions requisite to or appropriate, for the government of the Town, its peace and order, its sanitation,  
32 beauty, the health, safety, convenience, comfort, and well being of its population and the protection and preservation of  
33 property, public and private; and all actions, suits, and proceedings shall be brought in the name of "The Town of  
34 Ellendale."

35 (B) The enumeration of particular powers by this Charter shall not be held to be exclusive, or to restrict in any  
36 manner the general powers conferred herein, but in addition to the powers enumerated herein, implied thereby, or  
37 appropriate to the exercise thereof, it is intended that the Town of Ellendale shall have, and may exercise, all powers which,  
38 under the Constitution of the State of Delaware and statutes of the State of Delaware, it be competent for this Charter  
39 specifically to enumerate. All powers of the Town of Ellendale, whether expressed or implied, shall be exercised as  
40 prescribed by this Charter, or, if not prescribed herein, by ordinance or resolution of the Town Council.

#### 41 **Structure ~~Of~~ of Government**

#### 42 **Section 3.**

43 The Government of the Town and the exercise of the powers conferred by this Charter, the Constitution of the  
44 State of Delaware and statutes of the State of Delaware, except as otherwise provided herein, shall be vested in a Town  
45 Council. The Town Council shall consist of five members who shall be citizens of the State of Delaware and residents of  
46 the said Town above the age of twenty-one years. No person shall be eligible to serve as a member of the Town Council if  
47 that person has been convicted of a crime or misdemeanor, other than those related to traffic offenses. The Town Council  
48 may, by resolution, provide for compensation to be paid to council members and officers of the Town government. [77 Del.](#)  
49 [Laws, c. 377, §1](#)

#### 50 **Election In General**

#### 51 **Section 4.**

52 The present members of the Town Council, shall by this Act be appointed to serve and shall continue to act as  
53 ~~Councilmen~~ Councilmembers of said Town from and after the passage hereof until ~~Councilmen~~ Councilmembers are duly  
54 elected; and that at the annual election held on the first Saturday in ~~January,~~ January 1984, after the passage of this Act as  
55 provided for in Section 5 of this Act, ~~two~~ Two (2) ~~Councilmen~~ Councilmembers shall be elected for a term of two (2)  
56 years and that at the annual election to be held the first Saturday in January 1985, three (3) ~~Councilmen~~ Councilmembers  
57 shall be elected for a term of two (2) years; and thereafter the successor of each member of the Town Council shall be  
58 elected by the qualified voters as defined in Section 5 of this Act to serve for a term of two (2) years.

59 **Manner Of Holding Elections And Making Nominations**

60 **Section 5.**

61 (A) The annual municipal elections shall be held the first Saturday in the month of January, from ~~one o'clock P.M.~~  
62 1:00 p.m. until ~~seven o'clock P.M.~~ 7:00 p.m., at such places as shall be determined by the Council, due notices of which  
63 shall be given by posting notices thereof in five (5) public places within the limits of the Town of Ellendale, not less than  
64 twenty 20 days before the day of the annual election. On such occasion that the first Saturday is January 1<sup>st</sup>, the Municipal  
65 Election will then fall on the Second Saturday. 77 Del. Laws, c. 377, §2

66 (B) Said members of the Council shall be nominated as follows, viz:

67 At least ten 10 days before the day of the election as hereinafter fixed, nominations shall be filed with the  
68 Secretary of the Council. Said nominations shall be in writing signed by the nominee or by five (5) other citizens of the  
69 Town, which of at least two of whom shall be ~~freeholders~~ residents, which nominations shall be presented to the Council by  
70 the said Secretary at the meeting to be held at the usual meeting place, which shall not be later than ~~eight o'clock in the~~  
71 ~~evening~~ 8:00 p.m. of the last day for filing said nominations. Voting machines shall be used to record votes cast at all  
72 elections and the Council shall provide for the payment of all costs and expenses incident to their use, provided that in the  
73 event no contest exists in any election such voting machines shall not be required in such elections.

74 (C) Every election shall be held under the supervision of an Election Board consisting of three (3) qualified voters  
75 of said Town to be appointed for that purpose by the Council at least two (2) weeks before the election, but if at the opening  
76 of the election there shall not be present the three (3) qualified voters so appointed, or any one of them, in such case, the  
77 persons entitled to vote at such election, and then present shall appoint, by ~~viva voce~~ viva voce vote, a qualified voter or  
78 voters to act. The three (3) persons composing the Election Board shall be Judges of the election and shall decide upon the  
79 legality of the votes offered, keeping a list of all voters voting.

80 (D) At such annual election, every person, male or female, who shall have attained the age of eighteen (18) years  
81 on or before the date of the annual municipal election and who shall be a bona fide resident, of the Town of Ellendale, for a

82 period of six (6) months immediately preceding the date of such Annual Municipal Election, and who shall be a resident of  
83 the State of Delaware, shall have one (1) vote. The Town Council may, by Ordinance, establish a reasonable procedure for  
84 the registration of voters and, in such event, compliance therewith may be a prerequisite for voting at the election.

85 (E) All votes offered at the Annual Municipal Election shall be offered in person.

86 (F) In the event that no person files or is nominated for office for which an election is to be held within the time  
87 limit for nominations set forth herein, the incumbent shall be deemed to be reelected for a full term, and it shall not be  
88 necessary to have an election for the seat of that particular ~~Councilmen~~ Councilmember.

89 (G) In the event that only one person files or who is nominated for office for which an election is to be held within  
90 the time set forth hereinabove, the person who files or is nominated shall be deemed to be elected for the full term and it  
91 shall not be necessary to have an election pertaining to that ~~Councilman's~~ Councilmember's seat.

92 (H) In case of a tie vote for any office, the Election Board shall determine the tie by lot. [77 Del. Laws, c. 377, §3](#)

93 (I) The Election Board shall enter in a Book to be provided for that purpose, minutes of the election, containing the  
94 names of the persons chosen, shall subscribe the same, and shall give to the persons elected notice of the Election, which  
95 Book, containing such minutes, shall be preserved by the Council, and shall be evidence of any Court of Law and Equity.

96 All ballots cast and the records of the Elections shall be preserved in the custody of the Election Board

97 for a period of ten days.

98 (J) Title 15 of the Delaware Code, as it relates to Municipal Elections, shall apply to all elections of the Town. [77](#)  
99 [Del. Laws, c. 377, §4](#)

## 100 **Organization ~~And~~ and Annual Meeting ~~Of~~ of Council**

### 101 **Section 6.**

102 On the second Tuesday at 7:00 P.M., following the annual election each year, the Council shall meet and the  
103 newly elected officers shall assume the duties of office. Before entering upon the duty of their office, the newly elected  
104 members shall be sworn by a Notary Public, a Justice of the Peace or by a holdover member of the Council to faithfully and  
105 impartially perform their duties. At this annual meeting the Council shall organize and thereafter shall hold meetings at  
106 such time as hereinafter provided. [77 Del. Laws, c. 377, §5](#)

### 107 **Special Meeting, Waiver ~~Of~~ of Notice**

#### 108 **Section 7.**

109 Special meetings shall be called by the Secretary upon the written request of the President of Council, or upon the  
110 written request of any two (2) members of Council, stating the day, hour and place of the special meeting requested and the  
111 subject or subjects proposed to be considered thereat. The Secretary shall thereupon give written notice to the President and

112 to each member of Council of the day, hour and place of such special meeting and of the subject or subjects proposed to be  
113 considered thereat. Such notices of the Secretary must be deposited in the U. S. Mail in the main post office in the Town of  
114 Ellendale, at least forty-eight (48) hours prior to the time set for such special meeting, provided, however, that a written  
115 waiver of such notice, signed by the President and all other members of Council prior to or immediately upon the  
116 convening of such special meeting, shall make such forty-eight (48) hour written notice unnecessary and shall authorize and  
117 make valid the holding of a special meeting at any time named in such waiver, and the transaction of any other business at  
118 the meeting, if the waiver so states. The Secretary shall make public notice as required by Title 29, Chapter 100 of  
119 Delaware Code. The Town Council of the Town of Ellendale shall have the same power and authority to enact all  
120 ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting,  
121 called as aforesaid, as Council has at regular meeting.

122 **Quorum**

123 **Section 8.**

124 In the general performance of their duties, the acts, doings and determinations of a majority of the entire Council  
125 shall be as good as the acts, doings and determinations of all of the members of Council, but if a lesser number be present at  
126 any regular or properly called special meeting, they may adjourn from time to time ~~and may compel the attendance of~~  
127 ~~absent members in such manner and under such penalties~~ as may be prescribed by ordinance adopted by a majority of the  
128 entire Council. Should no ordinance exist, the Council will abide by Mason's Rules of Order. No ordinance, resolution,  
129 motion, order or other act of Council, except as immediately hereinabove provided for, shall be valid unless it received the  
130 affirmative vote of a majority of all members elected to Council.

131 **Rules And Minutes ~~Of~~ of Council**

132 **Section 9.**

133 The Council shall determine its own rules and order of business and shall keep a journal of its proceedings and the  
134 Yeas and Nays shall be taken upon the passage of every ordinance and ~~resolution, and resolution and~~ shall be entered in the  
135 Journal with the text of the ordinance or resolution.

136 **Vacancies**

137 **Section 10.**

138 In case of a vacancy created in the members of the Council either by death, resignation, loss of residence in the  
139 Town of Ellendale, or otherwise, the Council shall fill such vacancy for the remainder of the entire term. In the event of any  
140 such vacancy, a special meeting shall be called by the secretary adhering to the notice requirements hereinbefore mentioned  
141 therefor, which special meeting held for the purpose of filling such vacancy shall be held within 45 days.

142           **Disqualification**

143           **Section 11.**

144           If any ~~Councilman~~ Councilmember shall, during his/her term of office, lose ~~his~~ their residence in said Town, or ~~his~~  
145 their citizenship in the State of Delaware, or be found guilty of ~~any crime or misdemeanor other than minor traffic~~  
146 ~~violations~~ a felony, he/she shall forthwith be disqualified to act as a Member of Council, and ~~his~~ their office shall be  
147 deemed vacant and shall be filled by Council, as aforesaid.

148           **Contracts With Members**

149           **Section 12.**

150           It shall be unlawful for the said Council to make or enter into any contract for materials, supplies, work or labor  
151 for the use and benefit of the Town of Ellendale with any member of the Council or with any partnership in which any  
152 member of Council is a partner, or with any corporation in which any member of Council is a director or stockholder or  
153 with any firm or company in which any member of Council is pecuniarily interested, except with the unanimous consent of  
154 those members of the Council who have no personal pecuniary interest in the contract, and such contract shall be absolutely  
155 null and void without such unanimous consent. [71 Del. Laws, c. 388](#)

156           **Regular Meetings ~~Of~~ of Council**

157           **Section 13.**

158           The Council of the Town of Ellendale shall hold regular meetings once a month at such times as may be  
159 prescribed by the ordinance and resolution at the Town Hall, or at such other suitable place in said Town as the Council  
160 may select, but in the event of a temporary change in the place of meeting, public notice shall be posted in the usual place  
161 of meeting ~~not later than seven o'clock P.M. on the evening~~ no later than one (1) hour prior to the start of the said meeting,  
162 plainly stating the new place of meeting selected by Council, and the day and hour of such meeting.

163           **Officers**

164           **Section 14.**

165           (A) The Council shall, at the annual meeting held on the first Tuesday next following the annual election, organize  
166 by the election of a President, Vice-President, Secretary, Treasurer and Collector of Taxes. The President and the Vice-  
167 President shall be members of the Council.

168           The Secretary, Treasurer, and Collector of Taxes may or may not be a member of the Town Council. The Council  
169 shall also elect and appoint any such other officers, employees and agents of the Town which by it may be deemed proper  
170 and necessary for the proper conduct and management of the Town. Any officer may be removed at any time by the Town  
171 Council for ~~sufficient~~ cause.

172 (B) The Council shall by ordinance ~~or ordinance~~ fix the salaries and compensation of employees, officers and  
173 agents of the Town and the time and manner of his or her payment. No officer, employee or agent of the Town shall in any  
174 form have, take, or receive from the Town any compensation in any form in addition to the salary or compensation fixed by  
175 Council. [71 Del. Laws, c. 388](#)

176 (C) The Council shall cause to be kept a full and complete record of all officers appointed and employees and  
177 agents hired by the Town containing the names of such officers, employees, and agents, the dates and term of their  
178 appointment or employment, the salary or compensation and the date of the termination of service.

179 **Duties ~~And~~ and Powers ~~Of~~ of President**

180 (D) The duties of the President of the Council shall be to preside at all meetings of Council; to have general  
181 superintendence of municipal affairs, provided, however, that such general superintendency shall in all cases be subordinate  
182 to the authority of all committees, and appointees as selected by Council for the superintendency or conduct of any  
183 specified municipal activity, to receive complaints or nuisances and all complaints or violations of Law and Ordinances,  
184 and present the same to Council at its first meeting thereafter for action of Council. The President shall issue and sign all  
185 licenses for every exhibition within the Town, or licenses for any other purpose for which, under the Laws of Delaware, or  
186 the Ordinances of said Town, a license therefor is required.

187 The President may sign all warrants on the Treasurer for the payment of any Town money and shall perform such  
188 other duties as may be prescribed by resolution or ordinance of Council. If the President be incapacitated from acting by  
189 reason or absence, or for any other cause whatsoever, then all the powers and duties conferred and imposed under him/her  
190 by this Act, or any other Law, or any resolution or ordinance now or hereafter adopted or enacted by Council, shall be  
191 exercised and performed by the Member of Council chosen by Council as Vice-President for the period of such incapacity  
192 or absence.

193 The President shall have the same right as other ~~Councilmen~~ Councilmember to vote on all matters and may at any  
194 time appoint another ~~Councilman~~ Councilmember to preside if he/she desires to make a motion, move the adoption of a  
195 resolution, second either, or debate any question from the floor, and may thereafter immediately resume his/her duties, as  
196 presiding officer.

197 **Secretary**

198 ~~(E)~~ (E) The Secretary shall record all the proceedings of the Council and keep a correct journal of the same in a  
199 book to be provided for that purpose; and shall file and keep in a safe place the Seal of the Town and all papers, and  
200 documents, relative to the affairs of the Town, and deliver the same to ~~his~~ their successor in office. The Secretary shall  
201 attest the seal of the Town when authorized by Council, and shall perform such duties and have such other powers as may

202 be prescribed by ordinance. All records, books, papers and documents in the custody of the Secretary shall be open for the  
203 inspection of Council and the public.

204 **Treasurer**

205 (F) The Treasurer shall be a citizen and resident of the said Town above the age of twenty-one (21) years at the  
206 time of his/her appointment.

207 The Town Treasurer, before entering upon the duties of his/her office, shall be sworn or affirmed to ~~faithfully and~~  
208 ~~honestly perform the duties of his office~~ perform the duties of his/her office faithfully and honestly, which oath or  
209 affirmation shall be administered by the President or Vice-President.

210 The Town Treasurer, before entering upon the duties of his/her office, shall also give bond to the Town of  
211 Ellendale, with sufficient surety to be approved by Council, in the penal sum of Fifteen Thousand Dollars (\$15,000.00),  
212 conditioned for the faithful discharge of the duties of his/her office.

213 **Collector ~~Of~~ of Taxes**

214 (G) The Collector of Taxes shall be at least of the age of twenty-one (21) years at the time of his/her appointment.

215 It shall be the duty of the Town Collector to collect all Town Taxes, water and sewer rents, charges for electric  
216 current and all other kinds of Town revenue and to deposit to appropriate Town account.

217 The Town Collector, before entering upon the duties of his/her offices, shall give bond to the Town of Ellendale,  
218 with sufficient surety to be approved by Council, in the sum of Fifteen Thousand Dollars (\$15,000.00), conditioned for the  
219 faithful performance of the duties of his/her office.

220 (H) The Council shall commission Auditors who shall audit the accounts of the Town and all ~~of~~ its officers whose  
221 duty involves the collection, custody and payment of the moneys of the Town.

222 They shall audit the books and the records of all fines, penalties and costs imposed or collected, pursuant to any  
223 judgment order or decree made. The Auditors shall make and deliver a detailed report of all and every of the accounts,  
224 records and books by them examined and audited, which copies of said report under their hands and seals may be printed in  
225 a newspaper of general circulation in the Town in the issue immediately succeeding their annual report. The Auditors in the  
226 performance of their duties shall have access to all records of Council and the officers of the Town; and are authorized and  
227 empowered to employ such clerks or accountants as in their judgment may be necessary for the proper performance of their  
228 duties.

229 **Town Solicitor**

230 (I) The Town Council may retain a Town Solicitor who shall be a member in good standing of the Delaware State  
231 Bar and authorized to practice before all courts of the State of Delaware. It shall be the duty of the Town Solicitor, upon



232 request of the Mayor and/or a majority of the Town Council to give legal advice to the Council and to other officers of the  
233 Town, and to perform such other legal services as may be required of him/her by the Town Council. [71 Del. Laws, c. 388](#)

234 **Police Officers**

235 (J) The Council may appoint a Police ~~force~~ Force consisting of a Chief and such members or subordinates as the  
236 Council may deem wise; and the Council shall from time to time make rules and regulations as may be necessary for the  
237 organization, government and control of the Police ~~force~~ Force. The members of the force shall be subject to the direction  
238 of the Council, and may be removed by the Council at any time. They shall preserve peace and order, and shall compel  
239 obedience within the Town limits to the ordinances of the Town and Laws of the State; and they shall have such other  
240 duties as the Council shall from time to time prescribe.

241 Each member of the Police ~~force~~ Force shall be vested with all powers and authority of a Constable of Sussex  
242 County, and in the case of a pursuit of an offender their powers and authority shall be without territorial limitations.

243 ~~It shall be the duty of the police to suppress riotous disorderly or turbulent assemblages of persons in the streets of~~  
244 ~~the Town, or the noisy conduct of any person in the same, and upon view of the above, or upon the view of the violation of~~  
245 ~~any ordinances of the Town relating to the peace and good order thereof, the Police shall have the right and power to arrest~~  
246 ~~without warrant and to take the offender before a Justice of the Peace for hearing thereon.~~

247 **Town Clerk**

248 (K) The Town Council of the Town of Ellendale may appoint a Town Clerk. Upon the appointment of the Town  
249 Clerk, his/her duties shall be prescribed by the Town Council. The Town Clerk may not be a member of Town Council. At  
250 the discretion of the Town Council, he/she shall give corporate bond to the Town in an amount fixed by the Town Council  
251 conditioned for the faithful performance of his/her duties, the payment to the Town Council of all money coming into his  
252 hands as Town Clerk from whatever source derived, and in the event of death, resignation or removal from office, the  
253 delivery to his/her successor of all papers, books, records and other property of the Town in his hands or under his control.

254 ~~He~~ They may receive as compensation for his services, a salary to be fixed, from time to time, by resolution of the  
255 Town Council. ~~He~~ They shall attend all meetings of the Town Council and keep proper and adequate minutes of its acts and  
256 proceedings and keep a correct journal of the same in a book or books provided for that purpose. Said journal must show all  
257 bills approved by the Town Council, the amount of said bills and to whom payable; and he shall be in attendance at his/her  
258 office on such days and between such hours as may be directed by ordinance or resolution of the Town Council.

259 ~~He~~ They shall keep a record of all officers, agents and employees of the Town, when elected or appointed, the  
260 terms of office or employment, if a term be fixed, and the salary or compensation thereof. ~~He~~ They shall keep the  
261 assessment books and tax records of the Town with the names of the taxpayers arranged alphabetically, showing the tax, a

262 short description, an assessed value, as determined by the provisions hereof, of each parcel of real estate and short  
263 description of each item of personal property assessed, if any. ~~He~~ They shall also keep and maintain proper books and  
264 records showing the names of persons charged with utility rentals or service charges and detailed accounts thereof.

265 **Levy ~~Of~~ of Annual Taxes**

266 **Section 15.**

267 (A) Prior to July 1st, of each year, after receiving the assessments of property situated in the Town as established  
268 by the Sussex County Board of Assessment, the Town Council shall determine, to their best judgment and knowledge, the  
269 total amount necessary to be raised by the Town to meet all fixed and anticipated expenses and obligations of the Town  
270 including reasonable and appropriate reserves, for the then current fiscal years as set forth in the Town Budget for such year  
271 plus a reasonable amount to cover unanticipated expenses and emergencies.

272 (B) They shall then proceed to determine, in their sole discretion, from which sources of the authorized revenues  
273 of the Town the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect  
274 to any such source, the amount to be raised from each such source.

275 (C) They shall then proceed to determine, assess, fix and/or levy:

- 276 1. The rate of tax on real estate per fifty dollars (\$50.00) of assessed value; and/or [77 Del. Laws, c. 377](#)
- 277 2. The rate of tax on improvements on owned real estate per fifty dollars (\$50.00) of assessed value; and the value  
278 located on land under a lease, which said lease has been recorded in the Office of the Recorder of Deeds, in and for Sussex  
279 County; and/or [77 Del. Laws, c. 377, §7](#)
- 280 3. The amount of personal or per capita tax upon each qualified voter; and/or
- 281 4. The rate or rates to be charged for furnishing services of a public nature; and/or
- 282 5. The fees or rates to be charged in respect of any other authorized source of revenue sufficient in their best  
283 judgment and estimation to realize the amount to be raised from each such source determined by them to be used.

284 (D) Prior to July 1st of each and every year the Town Council shall make, or cause to be made, a full, true and  
285 correct ~~annual tax list~~ Annual Tax List showing the amount of tax levied against each taxable thereon from sources  
286 mentioned above. This list shall be known as the Annual Tax List of the Town of Ellendale. In addition to the information  
287 contained in the assessment list, it shall likewise contain information as to the rate of tax upon real estate per \$50 of  
288 assessed value thereof. [77 Del. Laws, c. 377, § 8](#)

289 (E) The ~~Councilmen~~ Councilmembers shall cause to be delivered to the ~~Town Clerk~~ Collector of Taxes a duplicate  
290 of said ~~annual tax list~~ Annual Tax List, and the ~~Town Clerk~~ Collector of Taxes shall immediately proceed to collect the  
291 same as hereinafter provided.

292 (F) The Council shall also have the right to levy and collect taxes upon all telephone, telegraph, power poles, or  
293 other erections of like character erected within the limits of the Town, together with the wires and appliances thereto or  
294 thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same to be included in or  
295 added to the Town Assessment. In case the owner or lessee of such poles or erections shall refuse or neglect to pay the  
296 taxes that may be levied thereon, the said taxes may be collected by the Collector of Taxes as in case of other taxes and the  
297 Council shall have authority to cause the same to be removed.

298 (G) Nothing contained in this Charter shall be construed to effect or impair in any way the validity of any tax, fee,  
299 assessment, or other charge lawfully levied, assessed, or due the Town of Ellendale under existing laws in reference to said  
300 Town and the same are hereby declared to be valid, binding and vested in the Town of Ellendale.

301 **Collection ~~Of~~ of Annual Taxes**

302 **Section 16.**

303 (A) The Treasurer or ~~Town Clerk~~ Collector of Taxes, as soon as the Councilmen shall have placed in his hands the  
304 duplicate annual tax list, shall proceed at once to collect the taxes on said duplicate list.

305 (B) All taxes so laid or imposed by the ~~Councilmen~~ Councilmembers of the Town of Ellendale in such ~~annual tax~~  
306 ~~list~~ Annual Tax List, shall be and constitute a lien upon all the real estate of the taxable, against or upon whom such taxes  
307 are laid or imposed, of which such taxable was seized or possessed, at any time after such taxes shall have been levied and  
308 imposed, that is situated in the Town. Such lien shall have preference and priority to all other such liens on real estate or  
309 upon improvements located on land under lease, as aforesaid, created or suffered by said taxable although such other lien or  
310 liens be of a date prior to the time of the attaching of such lien for taxes.

311 (C) All taxes, when and as collected by the ~~Town Clerk~~ or Treasurer or Collector of Taxes shall be paid to the  
312 Treasurer of the Town, and all taxes shall be due and payable at and from the time of the delivery of the tax list to the Town  
313 Clerk or Treasurer.

314 (D) On all taxes paid after the first day of June next succeeding the delivery of the annual duplicate tax list to the  
315 Town Clerk, there shall be added an amount ~~equal to one (1%) per centum per month~~ prescribed by the fee schedule for  
316 each and every month such taxes shall remain unpaid and shall be collected in the same manner as the original amount of  
317 the tax.

318 (E) ~~if~~ If the ~~collector~~ Collector of Taxes shall be unable, within one year of the date of the delivery of the duplicate  
319 ~~annual tax list~~ Annual Tax List to him/her, to collect the tax of any taxable, he/she is authorized and empowered, to collect  
320 such tax from such taxable by any of the processes of law.

321           (F) The provisions of this Section 16 shall apply to all special ad valorem taxes and special taxes levied by the  
322 Town Council pursuant to Section 18(A)(46) of this Charter, provided that all references in this Section 16 to an annual tax  
323 list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list  
324 showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special  
325 development district.

326           **Remedies, Powers ~~And~~ and Methods For The Collection ~~Of~~ of Taxes, Assessments ~~And~~ and Other Charges**

327           **Due The Town**

328           **Section 17.**

329           The following remedies are cumulative and, if two or more proceedings are pending to recover the amount due for  
330 taxes upon the same property for any year, neither proceeding shall be placed in a bar or in suspension of other proceedings,  
331 although when the full amount due for taxes upon the property for the year shall have been fully paid to the Town in any  
332 proceeding, together with all costs in all proceedings then pending, the ~~town~~ Town shall enter upon the records thereof  
333 discontinuances thereof:

334           (A) A remedy by distress as now prescribed by law is hereby preserved to the Town Clerk for the collection of any  
335 taxes, assessments, fees, warrants, or other charges for which the taxable may be liable to the Town.

336           (B) At any time after the delivery of the duplicate ~~annual tax list~~ Annual Tax List or warrant, or any other list of  
337 charges due the Town of Ellendale, the Town Clerk may with the approval of and in the name of the Town Council institute  
338 suit before any Justice of the Peace or Court of The State of Delaware, in any of the Counties of the State, for the recovery  
339 of the unpaid tax, assessment, fee, or other charge, in an action of debt, and upon judgment obtained, may issue Writs of  
340 Execution as in case of other judgments recovered before a Justice of the Peace. The action shall be brought in the name of  
341 the Receiver of Taxes and Town Treasurer for the Town of Ellendale." The said execution shall constitute a lien upon all of  
342 the personal property of the taxable within the County where the judgment shall have been obtained, which lien shall have  
343 preference and priority to all other liens on the personal property created or suffered by the taxable, although such other lien  
344 or liens be of a date prior to the time of the attachment of such lien for taxes.

345           (C) At any time after the delivery of the ~~tax list~~ Annual Tax List and warrant, the Collector of Taxes may notify, in  
346 writing the person, firm, or corporation by whom any taxable is employed that the tax of said employee is due and unpaid.  
347 The notice shall be signed by the president of the Council and shall contain the correct name of the taxable as it appears  
348 upon the ~~tax list~~ Annual Tax List, the amount of the tax due and the penalty added, if any, and thereupon it shall be the duty  
349 of the employer to take from the wage, salary, or other money then due the taxable, the amount of the tax due and owing  
350 from the employee, and charge the same against him/her and to pay the same to the Collector of Taxes within ten (10) days.

351 The Collector of Taxes shall give to the employer a Certificate of Payment which shall be allowed in any suit or accounting  
352 between the employer and the taxable. If any employer, being notified as aforesaid, and having in his/her hands money  
353 belonging to the taxable, shall neglect or refuse to comply with the provisions hereof, such employer shall become  
354 personally liable for the amount of the tax of the persons as to whom notice was given, and the amount thereof may be  
355 recovered from such employer in any action of debt before any Justice of the Peace, as aforesaid. This process shall be  
356 deemed to be in the nature of a garnishment proceeding.

357 (D) For the purpose of collecting the tax of any taxable, and without the necessity of first employing the remedies  
358 herein provided, the Collector of Taxes is empowered to sell the lands and tenements of a taxable, or the lands and  
359 tenements of a taxable alienated subsequent to the levy of the tax. The rights of the Town to conduct such a sale, as well as  
360 the procedures to be followed for the holding of such a sale, shall be the same in every manner as those rights available and  
361 those procedures specified for the sale of land for the collection of taxes on the part of the individuals charged with the  
362 responsibility for the collection of taxes for Sussex County, and all such procedures and method available for the sale of  
363 land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part thereof by  
364 reference thereto, including the method of sale by monition, as the same is set forth in the statutes made and provided,  
365 substituting the Town of Ellendale for Sussex County therein.

366 (E) ~~Attorneys~~ Attorney Fees and Costs of Collection. In addition to the amounts owed to the Town for taxes,  
367 assessments and other charges, and in addition to the late payment penalties ~~of one percent (1%) per month~~ as prescribed in  
368 ~~Section 16(D) by the fee schedule~~, the ~~Town Clerk~~ Collector of Taxes shall also be entitled to recover from the taxable or  
369 from proceeds of any attachment or sale of property to collect such amounts due the ~~town~~ Town, any amount necessary to  
370 reimburse the Town for its documented out-of-pocket expenditures incurred in connection with effecting such collection,  
371 including but not limited to court filing fees, Sheriff's costs, sale costs, advertising and photocopy costs, and reasonable  
372 attorney fees. [71 Del. Laws, c. 388](#)

373 (F) The provisions of this Section 17 shall apply to all special ad valorem taxes and special taxes levied by the  
374 Town Council pursuant to Section 18(A)(46) of this Charter, provided that all references in this Section 17 to an annual tax  
375 list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list  
376 showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special  
377 development district.

## 378 **Enumeration ~~Of~~ of Powers**

### 379 **Section 18.**

380 (A) Not by way of limitation upon the power vested in the ~~Councilmen~~ Councilmembers to exercise all powers  
381 delegated by this Charter to the municipal corporation of the Town of Ellendale except as may expressly appear herein to  
382 the contrary, but, rather by way of enumeration and for purposes of clarity, the ~~Councilmen~~ Councilmembers are vested by  
383 this Charter with the following powers, be exercised by said ~~Councilmen~~ Councilmembers in the interest of good  
384 government and the safety, health, and welfare of the Town, its inhabitants and affairs, that is to say:

385 ~~(1) To prevent vice, drunkenness and immorality.~~

386 ~~(2)~~ (1) To provide for and preserve the health, peace, safety, cleanliness, ornament and good order of the Town  
387 and its inhabitants.

388 ~~(3) To prohibit all gaming and fraudulent devices.~~

389 ~~(4)~~ (2) To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses  
390 or other public performances, amusements, and games.

391 ~~(5)~~ (3) To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment  
392 of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect,  
393 remove, repair, or replace any new or present street, highway, lane, alley, watercourse, park, lake, strand, crosswalk, wharf,  
394 dock, sewer, drain, aqueduct or pipeline, or portion thereof, or any new or present sidewalk, curb, or gutter, or portion  
395 thereof, in the Town; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the  
396 same shall be done; and to enter into contracts or agreements for the doing thereof, including contracts or agreements with  
397 the State Highway of the State of Delaware for the permanent maintenance, repair and upkeep of any street, alley, lane,  
398 roadway or other highway within the Town.

399 ~~(6) To regulate or control the observance of the Sabbath Day.~~

400 ~~(7)~~ (4) To establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast,  
401 bird or fowl running at large, and to authorize the destruction of the same and to impose taxes on the owners of dogs.

402 ~~(8)~~ (5) To locate, regulate, license, restrain or require the removal of slaughter houses, wash houses, laundries,  
403 canning establishments, phosphate, fish, fertilizer, or manure plants or establishments, swine pens, privies, water closets,  
404 and any businesses or buildings or conditions detrimental to the public health or constituting a public nuisance or of an  
405 offensive or noxious nature.

406 ~~(9)~~ (6) To enforce the removal of snow, ice, dirt or other ~~foreign substance~~ debris from sidewalks and gutters by  
407 owners or abutting owners.

408 ~~(10)~~ (7) To prohibit, remove, or regulate the erection and maintenance of, any stoop, step, platform, bay window,  
409 cellar door, gate, area, descent, sign, post, or any other erection or projection in, over, upon or under any street, highway,

410 alley, lane, watercourse, park, lake, strand, sidewalk, cross walk, wharf, dock, sewer, drain, aqueduct, or pipeline of the  
411 Town.

412 ~~(11)~~ (8) To define, prevent, abate or remove nuisances, obstructions or any condition detrimental to the public  
413 safety, health or welfare.

414 ~~(12)~~ (9) To provide an ample supply of pure water for the Town and its inhabitants and to this end to acquire,  
415 lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps,  
416 machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in and  
417 about the collection, storage, purification, conveyance, distribution or sale of water; to regulate and prescribe for what  
418 private or public purposes the water furnished by the municipal corporation may be used, the manner of its use, the amounts  
419 to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for  
420 any willful or negligent injury or damage to or interference with the water system or equipment of the town; to furnish, or  
421 refuse to furnish, water from the Town system to places and properties outside the Town limits; and to contract for and  
422 purchase water and distribute same to users within or without the Town with the same full powers as though such water had  
423 been initially reduced to usefulness by the municipal corporation itself.

424 For all purposes of this Charter the word "user" when referring to the users of either the public water system or the  
425 public sewer system shall be deemed to mean either the owner to whom the real estate is assessed or a leaseholder who  
426 holds land under a valid lease for a term of not less than ten (10) years and whose lease is of record in the Office of the  
427 Recorder of Deeds, in and for Sussex County, and who has erected upon the leasehold an improvement having an assessed  
428 valuation of at least One Thousand Dollars (\$1,000.00).

429 ~~(13)~~ (10) To provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment  
430 and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town; to regulate and  
431 prescribe for what private or public purposes the system may be used, the manner of its use, the amounts to be paid by the  
432 users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or  
433 negligent injury or damage to, or interference with the said system, plant or facilities; to furnish or refuse to furnish, sewer  
434 disposal service from the Town system to places and properties outside the Town limits; in the interest of the public's  
435 health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for  
436 and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as  
437 though such service had been initially provided by the facilities therefor of the municipal corporation itself.

438 ~~(14)~~ (11) To provide, construct, extend, maintain, manage and control a plant and system, or plants and systems,  
439 for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for

440 lighting the streets, highways, lanes, alleys, watercourses, parks, lakes, strands, sidewalks, crosswalks, wharves, docks,  
441 public buildings or other public places of the Town, and to this end to acquire, lease, erect, construct, maintain, operate,  
442 extend, enlarge, renew, replace, control, and dispose of transmission and distribution lines, pipes, mains and other  
443 conveyances for any such current or gas as may be necessary properly to light the Town, and to furnish proper connections  
444 for electric current and gas to the properties of the inhabitants of the Town who may desire the same; to regulate and  
445 prescribe for what private or public purpose the current or gas furnished by the municipal corporation may be used, the  
446 manner of its use, the amount to be paid by the users thereof, the means whereby such amounts shall be collected and the  
447 fines or penalties, or both, for any willful or negligent injury or damage to or interference with the electric or gas system or  
448 systems of the Town; to furnish or refuse to furnish, electric current or gas from the Town's system or systems to places and  
449 properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users  
450 within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness  
451 by the municipal corporation itself.

452       (15) (12) To fully control within the Town the drainage of all water and, to that end, to alter or change the course  
453 and direction of any natural water course, runs or rivulet within the Town, to regulate, maintain, clean and keep the same  
454 open, clean and unobstructed, and to provide, construct, extend, maintain, manage and control a surface water drainage  
455 system and facilities for the health, sanitation and convenience of the inhabitants of the Town.

456       (16) (13) To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood  
457 gates, piers, boardwalks, or fills for the preservation of any strand or high land within the limits of the Town or contiguous  
458 thereto, to the end that the same may be preserved, property protected and the general public might enjoy the use thereof.

459       (17) (14) To grant franchises or licenses to any responsible person, firm association or corporation, for such period  
460 of time, upon such terms, restrictions, stipulations and conditions and for such considerations as the ~~Councilmen~~  
461 Councilmembers shall deem wise, to use the present and future streets, highways, lanes, alleys, watercourses, parks, lakes,  
462 strands, sidewalks, crosswalks, wharves, docks and other public places of the Town for the purpose of furnishing heat,  
463 light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, railroad, excepting railroads or railways  
464 engaged in interstate commerce, bus, taxi or other transportation, carrier or public service to the Town and to the persons,  
465 firms, or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to  
466 points outside the limits thereof, and for the purpose of erecting wharves and piers, and for the purpose of vending any  
467 article of merchandise or service upon, or from any vehicle upon, any such present and future street, highway, lane, alley,  
468 etc.; provided, that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association  
469 or corporation whomsoever.



470           ~~(18)~~ (15) To regulate and control the exercise of any license or franchise mentioned in Section 18 (17) of this  
471 Charter or intended so to be.

472           ~~(19)~~ (16) To direct, regulate and control the planting, rearing, treatment and preserving of ornamental shade trees  
473 in the streets, highways, avenues, parks and grounds of the Town and to authorize or prohibit the removal or destruction of  
474 said trees.

475           ~~(20)~~ (17) To direct the digging down, draining, filling up, cleaning cutting or fencing of lots, tracts, pieces or  
476 parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any  
477 improvements authorized by this Charter.

478           ~~(21)~~ (18) To provide for or regulate the numbering of houses and lots on the streets, and the naming of streets and  
479 avenues.

480           ~~(22)~~ (19) To regulate, control or prevent the use or storage of gunpowder, fireworks, tar, pitch, resin and all other  
481 combustible materials and the use of candles, lamps and other lights in stores, shops, stables and other places; to suppress,  
482 remove, or secure any fireplace, stove, chimney, oven, broiler, or other apparatus which may be dangerous in causing fire,

483           ~~(23)~~ (20) For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the  
484 manner of building or removal of dwelling houses and other buildings; to establish a code for the same and to provide for  
485 the granting of permits for the same; to establish a building line for buildings to be erected; zone or district the Town and  
486 make particular provisions for particular zones or districts with regard to building or building materials; and, generally to  
487 exercise all the powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of  
488 Chapter 3, Title 22 Revised Code of Delaware, 1974, and all amendments thereto.

489           ~~(24)~~ (21) To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town, which shall be  
490 used as a place of detention for persons convicted of violation of law or ordinances for a reasonable time, in cases of  
491 necessity, prior to hearing and trial and to provide for the restraint, support and employment of paupers, beggars and  
492 vagrants; provided, that the jails of Sussex County may be used for any such purpose, in which event the Town shall pay  
493 for the board of persons committed thereto for violations of ordinances of the Town which are not violations of any general  
494 law of the State.

495           ~~(25)~~ (22) To acquire, build, erect and maintain buildings and facilities necessary or required for housing and  
496 equipping offices of the Town.

497           ~~(26)~~ (23) To regulate or prevent the use of guns, airguns, spring guns, pistols, sling shots, beanshooters, and any  
498 other devices for discharging missiles which might cause bodily harm or injury to property; and to regulate or prevent the  
499 use of fireworks, bombs, and detonating works of all kinds.

500           (27) (24) To provide for the punishment of a violation of any ordinance of the Town by fine or imprisonment, or  
501 both, not exceeding ~~One Five Hundred Dollars (\$100.00)~~ (\$500.00) or thirty days, and for working any person sentenced to  
502 such imprisonment or any person who shall refuse to so work when ordered.

503           (28) (25) To provide for the organization ~~for~~ of a municipal or volunteer fire department and the control and  
504 government thereof; to establish fire limits and do all things necessary for the prevention or extinguishment of fires; and, in  
505 their discretion, to contribute, donate or give an amount or amounts, not to exceed in the total during any given fiscal year  
506 three per centum (3%) of the total levied on real estate, unto any Volunteer Fire Company or Companies incorporated under  
507 the Laws of Delaware, or any Volunteer Fire Association or Associations maintaining and, operating fire fighting  
508 equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such  
509 conditions and stipulations as to the use thereof as the Councilmen shall deem advisable.

510           (29) (26) To purchase, take and hold real and personal property when sold for any delinquent tax, assessment,  
511 water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of abatement of nuisances and the like, laying  
512 out and repairing sidewalks, or other charge due the Town and to sell the same.

513           (30) (27) To levy and collect taxes for any and all municipal purposes upon all real estate within the Town, except  
514 lands belonging to the Town; ~~provided that the amount to be raised in any one year from this source shall not exceed Fifty~~  
515 ~~Thousand dollars (\$50,000).~~ 71 Del. Laws, c. 388

516           (31) ~~To levy and collect a personal or per capita tax upon all persons otherwise qualified to vote at any annual~~  
517 ~~municipal election to be used for any and all municipal purposes and not to exceed the sum of Ten Dollars (\$10.00) in any~~  
518 ~~one year for each such person.~~

519           (32) (28) To levy and collect taxes upon all telephone, telegraph, power poles, pipe lines, rail lines, or other  
520 constructions or erections of a like character erected within the limits of the Town, together with the wire or other  
521 appliances thereto or thereon attached; expressly excepting all telephone, telegraph, power lines, or poles and rail lines  
522 owned or operated by any railroad or railway company engaged in interstate commerce, for any and all purposes, and to  
523 this end may at any time direct the same to be included in or added to the Town assessment. In case the owner or lessee of  
524 such constructions or erections, wires or other appliances shall refuse or neglect to pay the taxes levied thereon, in addition  
525 to the remedies for the collection thereof set forth in Section 17 of this Charter, the ~~Councilmen~~ Councilmembers shall have  
526 authority to cause the same to be removed.

527           (33) (29) To license, tax and collect fees annually ~~for~~ for any and all municipal purposes (including the cost and  
528 expense of advertising in the Town) of such various amounts as the ~~Councilmen~~ Councilmembers from time to time shall  
529 fix, from any individual, firm, association or corporation carrying on or practicing any business, profession, or occupation

530 within the limits of the Town; provided, however, that nothing herein shall be so construed as to make it mandatory upon  
531 any resident of the State to apply for a license in order to sell in the Town any farm produce or products grown upon a farm  
532 owned by the vendor or any member of his/her family with whom he/she resides.

533 ~~(34)~~ (30) To determine from which authorized source and in what proportions taxes shall be levied and used each  
534 year to raise the revenue or funds required to meet the general expenses of the municipal corporation and all funding,  
535 amortization and interest requirements on its outstanding bonds or other indebtedness.

536 ~~(35)~~ (31) To provide for the collection of and disbursement of all monies to which the Town may become entitled  
537 by law, including licenses and fines, where no provision for the collection and disbursement thereof is otherwise provided  
538 in the Charter.

539 ~~(36)~~ (32) To accept from any authorized agency of the State or Federal Government, or from persons, firms or  
540 corporations, grants, or contributions for the planning, construction, acquisition, lease, reconstruction, improvement,  
541 betterment, or extension or operation and maintenance of any sewerage or water system and enter into agreements with  
542 such agency respecting such loans and grants, as well as to enter into and perform a contract or contracts with any person,  
543 municipality, or agency of the State or Federal Government for the sale, purchase, treatment, purification, transmission, or  
544 distribution of water.

545 ~~(37)~~ (33) To acquire, and/or to vacate the use of, lands, tenements, personalty, easements, rightsof-way, or other  
546 interest in property, either within or without the limits of the Town, by way of condemnation and eminent domain, for any  
547 proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred  
548 upon or delegated to the municipal corporation by the Charter. Proceedings by way of condemnation in any such case shall  
549 be the same as prescribed hereafter in Section 24 of the Charter for the opening and laying out of new streets or the vacating  
550 or abandoning of old streets and the resolutions referred to in said Section 24 shall be changed and modified to cover any  
551 case contemplated hereby.

552 ~~(38)~~ (34) To appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item  
553 thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in  
554 case of emergency.

555 ~~(39)~~ (35) To provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge or other  
556 amount due the Town by the performance of labor or service for the Town by any person owing the same.

557 ~~(40)~~ (36) To inquire into and investigate the conduct of any office, officer, agent, or employee of the Town or any  
558 municipal affair and for any such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and  
559 compel the attendance of witnesses and production of books, papers or other evidence by summary process.

560           (41) (37) To make, adopt and establish all such ordinances, regulations, rules and by-laws, not contrary to the laws  
561 of this State and the United States, as the ~~Councilmen~~ Councilmembers may deem necessary to carry into effect any of the  
562 provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may  
563 deem proper and necessary for the good government of the Town, the protection and preservation of persons and property  
564 and of the public health and welfare of the Town and its inhabitants; provided, that any ordinance relating to the public  
565 health of the Town and its inhabitants, or designed to prevent the introduction or spread of infectious or contagious  
566 diseases, or to prevent nuisances affecting the same shall apply not only within the corporate limits of the Town but as well  
567 to all areas and persons outside the Town within one mile from said limits.

568           (42) (38) To establish, by ordinance duly adopted in accordance with this Charter, a pension plan or a health and  
569 welfare plan, or both, for the employees of the Town under such terms and conditions as the Councilmen, in their  
570 discretion, deem most appropriate, provided, however, that any annual appropriation which is made by the Councilmen  
571 under any such pension plan or any health and welfare plan, or both, shall not exceed a maximum of Fifteen per cent (15%)  
572 of the total annual payroll of the Town, and provided, further, that the method of funding may, if deemed advisable by the  
573 Councilmen, be accomplished through an insurance company licensed by the State of Delaware or authorized to do  
574 business in this State and approved by a majority of the ~~Councilmen~~ Councilmembers.

575           (43) (39) To borrow money in anticipation of the issuance of bonds on the full faith and credit of the Town a sum  
576 not exceeding 25% of the assessed value of real property within the Town of Ellendale in any one year when, in the opinion  
577 of the majority of the ~~Councilmen~~ Councilmembers, the needs of the Town require it. Any sum so borrowed shall be  
578 secured by promissory notes of the Town duly authorized by a Resolution adopted by the ~~Councilmen~~ Councilmembers and  
579 signed by the President of the Town Council of Ellendale and attested by the Secretary of the Town Council of Ellendale  
580 with the corporate seal affixed and no officer or councilman shall be liable for the payments of such notes because they are  
581 signed by them as officers of the Town and are authorized by the Resolution of the Councilmen of Ellendale; PROVIDED,  
582 HOWEVER, that the total sum outstanding at any one time shall not exceed 25% of the assessed value of real property  
583 within the Town of Ellendale; and PROVIDED FURTHER, that any sum of money so borrowed, as aforesaid, in any fiscal  
584 year shall be paid from the general fund of the Town and shall be completely repaid at any time but must be completely  
585 paid at the end of ten (10) fiscal years following the first fiscal year when said sum or sums were borrowed with interest  
586 thereon; AND PROVIDED FURTHER, that such ad valorem taxes shall be levied as are necessary to pay the principal of  
587 and interest on said bonds as is required without regard to any other limitation concerning the maximum rate of taxation  
588 and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political  
589 subdivision, agency or subdivision thereof. [77 Del. Laws, c. 377, §9](#)

590           (44) (40) To exercise all other powers vested in ~~towns~~ Towns and municipalities in the State of Delaware,  
591 generally, which powers are granted to such entities by the Delaware General Assembly, as well as such powers which may  
592 be granted to such entities by the General Assembly in the future, which powers are not denied to said entities by the  
593 Constitution or any Statute in effect.

594           (45) (41) To impose upon new development or construction, upon first time occupancy of new construction, or  
595 upon annexed property such "impact fees" as are reasonably calculated to recover the cost of installing, enlarging,  
596 improving or expanding public or municipal improvements which have a rational nexus to such new construction, including  
597 but not limited to, sewer, water, roads, parking, and/or police, municipal or volunteer fire or ambulance services within the  
598 Town. [75 Del. Laws, c. 259](#)

599           (42) (a) In addition to all other powers the Town Council may have, and notwithstanding any limitation of law, the  
600 Town Council shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with  
601 Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act, and Chapter 18 relating  
602 to Special Development Districts.

603           (b) Bonds issued under this Section 18(A)(42) of this Charter are nonrecourse to property owners who purchase  
604 property in a special development district and a tax increment financing district created under Chapters 17 and 18 of Title  
605 22 of the Delaware Code. Property owners who purchase property in these districts shall only be responsible for the  
606 payment of ad valorem real property taxes and special taxes levied by the Town Council pursuant to Chapters 17 and 18 of  
607 Title 22 of the Delaware Code.

608           (c) All provisions of this Section 18 and Sections 20A and 20B of this Charter, and any other section of this  
609 Charter, limiting the amounts of indebtedness to be incurred or taxes to be levied by the Town Council shall not apply to  
610 any indebtedness incurred or any special ad valorem taxes, special taxes or ad valorem taxes levied pursuant to or in  
611 connection with this Section 18(A)(42).

612           **Use Of of Town Money**

613           **Section 19.**

614           The Town Council of said Town shall have full power and authority to use the money in the Treasury of said  
615 Town or any portion thereof, from time to time, for the improvement, benefit, protection, ornament and best interest of the  
616 said Town, as Council may deem proper, and to use Town money to accomplish and carry into effect all acts and things  
617 which it has power to do by virtue of the Laws of Delaware, this Act and all lawful ordinances and resolutions of Council.  
618 In the general performance of its duties and particularly in the expenditure of moneys of the said Town, the acts, doings and  
619 determinations of a majority of the entire Council shall be as good as the acts, doings and determinations of all of the

620 members of Council. In case of the absence or other incapacity of ~~Councilmen~~ Councilmembers, or in case of a vacancy or  
621 vacancies in Council, the remaining members, providing they constitute a majority of the entire Council, may conduct  
622 regular meetings and preside over hearings as specified herein and conduct all other necessary business, but no funds of the  
623 said Town shall be used for any purpose without the affirmative action of a majority of all members elected to Council.

624 **Borrowing Of of Money And and Issuance Of of Bonds**

625 **Section 20A.**

626 Short Term Borrowings by Town Council Without Voter Approval. The Town Council shall have the power to  
627 borrow money on the full faith and credit of the ~~town~~ Town, from time to time, without approval of the voters and without  
628 regard to the provisions of Section 20B of this Charter, such sum or sums not exceeding in the aggregate ~~Sixty One~~  
629 Hundred Thousand dollars (~~\$60,000~~) (\$100,000) for general purposes when in the opinion of the majority of the Town  
630 ~~council~~ Council elected, the needs of the Town require it; provided, however, that any new borrowings under this Section  
631 20A made after the effective date of this act shall, by their terms, be repayable in full within six (6) years of the date of each  
632 such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of  
633 indebtedness of the Town Council duly authorized by Resolution of the Town Council and signed by the Mayor and  
634 attested by the Secretary of the Town Council with the ~~town~~ Town seal affixed. No Council member shall be liable for the  
635 payment of any such note or any other evidence of indebtedness because it is signed by him/her as a Council member,  
636 provided that he/she is so authorized by Resolution of Town Council. Such notes or evidences of indebtedness and the  
637 interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions. Any  
638 sum(s) of money borrowed on the full faith and credit of the Town shall be paid from the general funds of the Town and/or  
639 from the proceeds of any grant or gift to the Town unless restricted by the terms of such grant or gift. The aggregate amount  
640 of outstanding principal from any such borrowing or borrowings under this §20A shall at no time exceed the sum of ~~Sixty~~  
641 One Hundred Thousand dollars (~~\$60,000~~) (\$100,000). [77 Del. Laws, c. 377, §10](#)

642 **Section 20B.**

643 (1) The Council of the Town of Ellendale may borrow money and issue bonds or certificates of indebtedness to  
644 secure the repayment thereof on the faith and credit of the Town of Ellendale or such other security or securities as the  
645 ~~Councilmen~~ Councilmembers shall elect for the payment of principal thereof and interest due thereon.

646 (B) (2) All bond or other kinds or forms of certificate or certificates of indebtedness issued by the ~~Councilmen~~  
647 Councilmembers of The Town pursuant to the provisions of this section shall be exempt from all State, county or municipal  
648 taxes.

649 (3) The power or authority to borrow money may be exercised by the ~~Councilmen~~ Councilmembers of The Town  
650 of Ellendale to provide funds for, or to provide for the payment of, any of the following objects and purposes: (1) refunding  
651 any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable  
652 feature or provision contained therein; (2) meeting or defraying current operating expenses of the Town; (3) erecting,  
653 extending, enlarging, maintaining, and repairing any plant, building, machinery or equipment for the manufacture,  
654 supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or  
655 purchasing of any lands, easements and rights-of-way which may be required therefor; (4) constructing, paving, laying-out,  
656 widening, extending, repairing and maintaining streets, lanes, alleys and ways and the paving, constructing, laying-out,  
657 widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing of  
658 any lands, easements or rights-of-way which may be required therefor; (5) constructing, laying-out, widening, extending,  
659 and repairing sidewalks, crosswalks, or embankments, or any of them and the condemning or purchasing of any lands,  
660 easements or rights-of-way which may be required therefor; (6) defraying the costs to the Town of any other municipal  
661 improvement provided for or authorized or implied by the provisions of this Charter.

662 (4) The ~~Councilmen~~ Councilmembers shall adopt a resolution proposing unto the electors of the Town by  
663 resolution that an amount of money shall be borrowed for any of the above purposes. The resolution shall state the amount  
664 of money desired to be borrowed, the purpose for which it is desired, the manner of securing the same, and other pertinent  
665 facts relating to the loan which are deemed pertinent by the ~~Councilmen~~ Councilmembers of the Town of Ellendale and in  
666 their possession, and shall fix the time and place for a public hearing on said resolution.

667 (5) Notice of the time and place of the hearing on the resolution authorizing said loan shall be printed in a  
668 newspaper having a general circulation in the Town of Ellendale at least one week before the time fixed for the public  
669 hearing.

670 (6) After the public hearing, a second resolution may then be passed by the ~~Councilmen~~ Councilmembers of The  
671 Town of Ellendale ordering a Special Election to be held not less than thirty days and no more than sixty days after said  
672 public hearing to borrow the said money for the purpose of voting for or against the proposed loan. The passing of the  
673 second resolution calling the Special Election shall, ipso facto, be considered the determination of the ~~Councilmen~~  
674 Councilmembers of The Town of Ellendale to proceed in the matter in issue.

675 (7) The notice of the time and place of holding the said Special Election shall be printed in two issues of a  
676 newspaper having a general circulation in the Town of Ellendale within thirty days prior to the date of the said Special  
677 Election.

678 (8) At the said Special Election, every owner or leaseholder, as defined in this Charter, of property, whether an  
679 individual, partnership or corporation, shall have one vote and every person who is a bona fide resident of the Town of  
680 Ellendale, but who is not an owner or leaseholder, as defined in this Charter, of property within the corporate limits of the  
681 Town of Ellendale, and who would be entitled at the time of holding of the said Special Election to register and vote in the  
682 Annual Municipal Election if such Annual Municipal Election were held on the day of the Special Election shall have one  
683 vote whether or not such person be registered to vote in the Annual Municipal Election.

684 (9) Any Special Election held pursuant to the provisions of this section shall be conducted by voting machines  
685 which shall have the following designations:

686 [ ] For the proposed borrowing

687 [ ] Against the proposed borrowing

688 The voter shall be instructed to mark the box for which ~~be~~ he/she casts his/her vote.

689 (10) In the event that an individual holds a power of attorney duly executed and acknowledged of another person  
690 or of a firm or corporation specifically authorizing the said individual to vote at the said Special Election, a duly  
691 authenticated copy of which has been filed in the Office of the Town Clerk of the Town of Ellendale, such individual shall  
692 be entitled to cast the vote of said person, firm or corporation.

693 (11) The President of the Town Council shall appoint a Board of Special Election, whose members shall have the  
694 same qualifications as provided in this Charter in the case of the Board of Elections of an Annual Municipal Election of the  
695 Town of Ellendale.

696 (12) The polling places shall be opened from eleven o'clock (11:00) in the morning, prevailing time, until seven  
697 o'clock (7:00) in the evening, prevailing time, on the date set for the Special Election, Persons in the polling place at 7:00 in  
698 the evening shall be entitled to vote even though such votes may be cast after 7:00 in the evening.

699 (13) Immediately upon the closing of the polling places, the Board of Special Election shall count the ballots for  
700 and against the proposed borrowing and shall announce the result thereof and shall make a certificate under their hands of  
701 the number of votes cast for and the number of votes cast against the proposed borrowing and the number of void votes and  
702 shall deliver such certificate in duplicate, to the ~~Councilmen~~ Councilmembers of The Town of Ellendale. The said  
703 certificate shall be filed with the papers of the Town Council.

704 (14) The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or  
705 times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature,  
706 the denomination and the name thereof and any other relative or appurtenant matter pertaining thereto shall all be  
707 determined by the Town Council of The Town of Ellendale after said Special Election.



708 (15) The faith and credit of the Town of Ellendale shall be deemed to be pledged for the due payment of the bonds  
709 and the interest thereon issued under the provisions hereon when the same shall have been properly executed and delivered  
710 for value notwithstanding any other provision of this Charter.

711 (16) The bonds may be sold at either public or private sale. If it is determined to sell the said bonds at public sale,  
712 the bonds shall be offered for sale to the best and most responsible bidder therefor after advertisement in the newspaper  
713 having a general circulation in the Town of Ellendale, and otherwise if the ~~Councilmen~~ Councilmembers of The Town shall  
714 deem it advisable for at least fifteen days before offering the same for sale.

715 (17) In no event shall the indebtedness of the Town of Ellendale authorized by this section at any one time exceed  
716 in the aggregate twenty-five percent of the assessed valuation of all real property situate within the corporate limits of the  
717 Town of Ellendale and subject to assessment for the purpose of levying the annual tax as provided in this Charter. [71 Del.](#)  
718 [Laws, c. 388](#)

## 719 EXEMPTION OF PROPERTY FROM TAXATION

### 720 Section 21.

721 The Town Council of ~~said~~ Town shall have power by an ordinance, or by a resolution, to relieve, release,  
722 exonerate and exempt the real or personal property, or both, of any person, firm, association or corporation used in any  
723 manufacturing business within the limits of said Town and employing no less than six persons; and the real, or personal  
724 property, or both, of any person, firm, association or corporation used in the manufacture or distribution or both, of water,  
725 gas, electric current or other service or commodity deemed desirable or necessary for the best interest of the inhabitants of  
726 said Town, and the real or personal property, or both, held, owned, leased, or employed by any person, firm, association or  
727 corporation with whom Council may now or in the future have a contract for the furnishing to said Town and its inhabitants  
728 of electric current, light, power, heat, water or any or all of them over which Council has power or authority and from the  
729 payment of the same. No property shall be exempt from taxation aforesaid until such an ordinance is enacted or such a  
730 special resolution adopted and the period of such exemption shall be only such as is set forth in said ordinance or  
731 resolution, and shall not be in excess of ten years, and shall only be revocable upon the breach of a condition contained in  
732 such ordinance or resolution. The Town Council may by an ordinance or by a resolution, exempt from property taxation  
733 those qualified citizens who are exempt as established by law.

### 734 Town Budget

### 735 Section 22.

736 (A) The fiscal year for the Town of Ellendale shall be January 1, through December 31.

737 (B) Annually each year and not later than the last week in June the Town Clerk and the Treasurer may prepare a  
738 rough draft of a Town Budget. From this rough draft the Town Council may not later than July 31, of each year, prepare the  
739 Town Budget, containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.

740 (C) The Budget ~~may~~ must contain the following information:

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

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

745 ~~(3)~~ (2) The amount of the debt of the Town, together with a schedule of maturities of bond issues.

746 ~~(4)~~ (3) An itemized statement of all other estimated expense to be incurred in the affairs of the Town.

747 ~~(5)~~ (4) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any Bond  
748 maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds"

749 ~~(6)~~ (5) An estimate of the amount of money to be received from taxes, assessment, and all other anticipated  
750 ~~income of~~ income of the Town from any source or sources whatsoever.

751 (D) The Town Council shall, so far as possible, adhere to the Budget so adopted in the making of appropriations.

752 **Removal ~~Of~~ of Obstructions, Nuisances, ~~And~~ and Unsanitary Conditions**

753 **Section 23.**

754 (A) ~~in~~ In addition to the power to impose fines and penalties for the maintenance of obstructions, nuisances, and  
755 unsanitary conditions, as those terms may be defined by the ~~Councilmen~~ Councilmembers, if the ~~Councilmen~~  
756 Councilmembers either upon their own inspection or upon information obtained from the ~~Town Clerk~~ President or Police  
757 Force, shall deem that such obstruction, nuisances, or unsanitary condition ought to be removed or abated as the case may  
758 be, the ~~Councilmen~~ Councilmembers shall enact an ordinance or adopt a resolution, or both, to that effect and thereupon  
759 shall direct the ~~Town Clerk~~ President to forward, to the person or persons continuing or causing such obstruction,  
760 nuisances, or unsanitary condition, or to the person or persons who are responsible for its existence or continuance, by the  
761 mails of the United States, in a sealed wrapper addressed to his/her or their last and best known post office address, a notice  
762 to remove or abate the same as soon as may be possible. If such person or persons refuse or neglect, for the space of five (5)  
763 days after such notice is mailed, to remove or abate the same, the ~~Councilmen~~ Councilmembers may have a warrant issued  
764 in the name of the Town Council of the Town of Ellendale. The warrant shall command him/her forthwith to remove or  
765 abate such obstruction, nuisance or unsanitary condition. The ~~Town Clerk~~ President shall forthwith proceed to remove or  
766 abate the same and, to that end, he shall have full power and authority to enter into and upon any lands and premises in the

767 Town. He/she shall likewise have the authority to take with him such assistants, implements, vehicles or other things as  
768 may be necessary and proper to do and perform all matters and things in connection with the removal or abatement of such  
769 obstruction, nuisance, or unsanitary condition.

770 (B) At the regular monthly meeting of the Town Council next succeeding the delivery of the warrant to him/her,  
771 the ~~Town Clerk~~ President shall make a return to the ~~Councilmen~~ Councilmembers of his proceedings upon he warrant and  
772 shall specify the costs and expenses of all necessary work, labor, and proceedings incurred by him in the abatement or the  
773 removal of the same.

774 (C) At such meeting, the ~~Councilmen~~ Councilmembers shall determine, from the return of the Town Clerk, the  
775 costs and expenses of all necessary work, labor, and proceeding in reference to the abatement or removal of such  
776 obstruction, nuisance, or unsanitary condition. The ~~Councilmen~~ Councilmembers shall issue or have issued a warrant,  
777 containing an itemized account of that information, together with the name and last and best known address of the person  
778 from whom the ~~Councilmen~~ Councilmembers shall determine the amount to be due and shall deliver such warrant to the  
779 Town Clerk. The warrant shall command him/her forthwith to collect the amount stated to be due thereon from the person  
780 or persons designated therein. The Town Clerk shall forward to such person or persons, in a sealed wrapper, a true and  
781 correct copy of the warrant by depositing the same in the United States mails and addressed to such person's or persons' last  
782 and best known post office address. If such person or persons shall refuse or neglect to pay the same to the Town Clerk for  
783 the use of the Town within thirty (30) days from the date of the mailing of such true and exact copy of the warrant, the  
784 Town Clerk shall then be authorized and required to collect the same in any of the manners hereinbefore provided in  
785 Section 17 hereof.

786 **Streets**

787 **Section 24.**

788 The Town Council shall have power and authority to locate, lay out, and open new streets and to widen or abandon  
789 streets or parts thereof, whenever they shall deem it for the best interest of the said Town. The procedure in every case as  
790 aforesaid, shall be as follows: The Council shall, by a majority vote, adopt a resolution favorable to the opening of the new  
791 street, or to the widening or altering of a street, or to the vacating or abandoning of a street, or any part thereof, as the case  
792 may be, and giving a general description of the street to be opened or widened, or altered, or of the street or part thereof to  
793 be vacated or abandoned, as the case may be. The said resolution shall also state the day, hour and place when the said  
794 Council will sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of  
795 property. A copy of such resolution shall be posted in five (5) or more public places in the said Town at least five (5) days  
796 before the day fixed for the hearing aforesaid. At the time and place fixed in the said resolution said Council shall hear such

797 residents of the Town or owners of the property affected as shall attend, and it shall at said meeting or at a subsequent day,  
798 as it shall deem proper, adopt a resolution by a majority vote, to proceed with, or to abandon as it shall deem for the best  
799 interest of the said Town, the opening of the street or streets, or the widening, altering, vacating or abandoning of the  
800 existing street or streets, or part thereof, as the case may be, as contemplated in its prior resolution. And in case the  
801 determination of the said Council shall be to proceed with the plan contemplated by the resolution first aforesaid, Council  
802 shall award just and reasonable compensation to anyone who will be deprived of property in consequence thereof. Such  
803 compensation, if any be awarded, shall be paid by the Treasurer of the Town, on a warrant drawn on him/her by authority  
804 of the Council aforesaid upon delivery of a Deed in fee simple in favor of the Town of Ellendale, and clear of all liens and  
805 encumbrances. If anyone who will be deprived of property as aforesaid be dissatisfied with the compensation awarded by  
806 the Council aforesaid, he/she may, within five (5) days after the award of the Council as aforesaid, appeal from such award  
807 by serving written notice to that effect on the Secretary or President of Council. In order to prosecute said appeal such  
808 appellant shall within five (5) days after the expiration of the five (5) days allowed for the appeal as aforesaid, apply to the  
809 Judge of the Superior Court for the State of Delaware, resident in Sussex County, or in his/her absence at the time, to the  
810 Chief Justice of the said Court, for the appointment of freeholders to hear and determine the matter of compensation to such  
811 appellant for any of which will be deprived as aforesaid, and thereupon the said Judge or Chief Justice, as the case may be,  
812 shall issue a commission under his/her hand directed to five impartial ~~freeholders~~ residents of Sussex County, commanding  
813 them to determine and fix the damages which the said appellant will sustain by reason of being deprived of any property as  
814 aforesaid, taking into consideration the benefit or advantages that will enure to the said appellant from said new street or  
815 otherwise, and to make return of their funds to the said Judge or Chief Justice, as the case may be, at a time appointed in  
816 said commission. The said freeholders shall give notice of the day, hour and place when they will meet to view the  
817 premises and to assess the damages, if any, as aforesaid. Such notice shall be served upon the appellant personally, or by  
818 posting a copy on the premises affected at least five (5) days before the day they are to view the premises as aforesaid and a  
819 copy of such notice shall also be served on the Secretary or the President of Council at least five (5) days before the day of  
820 such meeting. The ~~freeholders~~ residents named in such commission being first sworn or affirmed on the day and at the hour  
821 and place stated in the notice aforesaid, shall view the premises and hear the appellant and his/her witnesses and the  
822 Council and its witnesses, and shall without delay, determine and fix the damages, if any, which the said appellant will  
823 sustain by reason of being deprived of any property as aforesaid. Thereupon and without delay the said ~~freeholders~~  
824 residents shall make return in writing of their proceedings in the premises to the said Judge or Chief Justice, as the case  
825 may be, who shall cause the said return to be delivered to the said Secretary or President of Council and such return shall be  
826 final and conclusive. The said Judge or Chief Justice shall have power to fill any vacancy among the ~~freeholders~~ residents.

827 The amount of damages being ascertained as aforesaid, the said Council may pay or tender the same to the person or  
828 persons entitled thereto, or may deposit the same to his credit in any Bank in the Town of Ellendale to the credit of the  
829 person or persons entitled thereto within the said 'period of one (1) month, and thereupon the said Council may carry into  
830 effect the plan contemplated in their resolutions aforesaid. In the ascertainment and assessment of damages by the  
831 freeholders appointed by the Judge or Chief Justice aforesaid, if the damages shall be increased or if the Council shall  
832 decide not to take said land, the costs of the appeal shall be paid by the Treasurer of the said Town out of any money in  
833 his/her hands belonging to the Town, but if said damages shall not be increased, the costs of the appeal shall be paid by the  
834 party appealing. The fees of the ~~freeholders~~ residents shall be five dollars per day to each, which shall be taxes as part of the  
835 costs. After the damages shall be fixed and ascertained by the ~~freeholders~~ residents as aforesaid, Council shall have the  
836 option of paying the damages assessed within the term aforesaid and proceed with the improvements, or upon the payment  
837 of the costs only, may abandon the proposed improvement.

838 Whenever the land comprehended or included in any street, or part thereof, is vacated or abandoned under this  
839 Section if owned by the said Town, the Council may, in its discretion, sell such land at public sale and for such  
840 consideration as the Council shall deem proper, and shall have the right and power to convey to the purchaser or purchasers  
841 thereof a good and sufficient title thereto for whatever estate the said Town may have therein.

842 The word "street" shall be deemed and held to comprehend and include sidewalks, lanes, and alleys for all the  
843 purposes of this Section.

#### 844 **Paving, Guttering, Curbing**

#### 845 **Section 25.**

846 The Council shall have the power to cause to be paved or repaved the sidewalks of the said Town, or any part or  
847 portion thereof, and shall have power to have existing curbs or gutters, or both, repaired or relaid, or new curbs or gutters,  
848 constructed, or any part of or portion thereof, in said Town, with such material or materials and of such width or size, and  
849 subject to such specifications as it shall determine. Before the exercise of said power in any particular instance, the Council  
850 shall adopt an ordinance or resolution stating in effect that on a named day and at a named hour and place the Council will  
851 meet to consider the question of paving or repaving the sidewalks with a specified material or materials, or repairing  
852 existing curbs or gutters, or both, or altering existing curbs or gutters, or both, with any specified material or materials and  
853 according to the stated specifications on a named street in front of the property of named owners, and of assessment of the  
854 costs thereof against such owners. The said ordinance or resolution shall be published at least one week prior to the meeting  
855 aforesaid in at least one issue of a newspaper published in the said Town, or in a newspaper published elsewhere in Sussex  
856 County, if there be none in said Town published. The Council shall hold a meeting in said Town in accordance with said

857 ordinance or resolution and thereat shall hear the aforesaid owners of property and other residents of the Town appearing on  
858 the question referred to in the said ordinance or resolution.

859 After such hearing, the Council, either at said meeting or at a subsequent meeting, shall decide whether or not to  
860 proceed with the improvements referred to in said ordinance or resolution, and if it shall decide to proceed it shall  
861 determine whether the whole or some specified proportion of the costs of the improvements aforesaid in front of the real  
862 property of the owner or owners named in the aforesaid ordinance or resolution shall be borne by said owners. If said  
863 determination shall be that the whole or specified proportion of said costs shall be borne by said owners, then in such case  
864 the said owners shall be compelled to pay the whole or specified proportion of the cost aforesaid,, as the case may be, the  
865 amount to be paid by the owner of each parcel of property affected to be determined by the lineal frontage of the parcel on  
866 the sidewalk to be paved or repaved, or in the gutter to be repaired or laid, or on the curb, to be repaired or constructed, or  
867 any or all of said improvements, as the case may be. When the said paving or repaving, curbing or recurring, guttering or  
868 reguttering, or any or all of them, have been done and the costs thereof ascertained, the Council shall ascertain the amount  
869 that the owner of each parcels of property aforesaid shall pay as hereinbefore stated, and shall give written notice thereof to  
870 such owner, or one of the co-owners, by mailing the same to his/her last known address. If any such owner shall fail to pay  
871 the specified amount within thirty (30) days after the mailing of such notice, the same may be collected in any of the  
872 manners hereinbefore provided in Section 17 hereof.

873 **Contracts**

874 **Section 26.**

875 (A) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this  
876 Charter shall be awarded to the bidder submitting the lowest and best bid, provided, however, that competitive bidding shall  
877 not be required in any of the following circumstances:

- 878 1. The aggregate amount involved is not more than ~~Five Ten~~ Ten Thousand dollars (~~\$5,000~~) (\$10,000) or is  
879 below the minimum threshold established by the State of Delaware Office of Management and Budget for  
880 Material and Non-Professional Services, Public Works, and/or Professional Services;
- 881 2. The purchase or contract is for personal or professional services;
- 882 3. The purchase or contract is for any service rendered by a university, college or other educational  
883 institution;
- 884 4. The purchase or contract is for any service to be rendered by the State of Delaware or any political  
885 subdivision thereof;
- 886 5. The purchase or contract is for property or services for which it is impracticable to obtain competition;

887 6. The public exigency as determined by the Town ~~Councilmen~~ Councilmembers will not permit the  
888 delay incident to advertising;

889 7. The material to be purchased are to be used to complete a project under the supervision of the Town  
890 ~~Clerk~~ President or delegate;

891 8. The purchase or contract is for property or services for which the ~~Councilmen~~ Councilmembers  
892 determine the prices received after competitive bidding are unreasonable as to all or part of the requirement or  
893 were not independently reached in open competition;

894 9. A public emergency as determined by the ~~Councilmen~~ Councilmembers exists;

895 10. The purchase or contract is made by, with, or through an agency of the State of Delaware. 71 Del.  
896 Laws, c. 388

897 (B) Notwithstanding the foregoing provisions of this Section 26 and without complying with the competitive  
898 bidding procedures described in this Section 26, the Town Council may enter into any contract necessary or desired in  
899 connection with a 3 special development district or tax increment financing district created or designated by the Town  
900 Council pursuant to Section 18(A)(46) of this Charter, except a contract in which the Town Council is directly contracting  
901 for the procurement of the labor or material for public improvements for the benefit of such district, provided that the  
902 foregoing exception shall not apply to development, funding or similar type contracts between the Town Council and an  
903 owner of real property in such district when the contract is generally for the transfer by the owner to the Town of Ellendale  
904 of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

905 **Water System**

906 **Section 27.**

907 The Town Council is hereby vested with full power and authority, after approval of a majority of votes cast at a  
908 referendum therefor pursuant to the procedure set forth in Section 31, subsection K through P, to provide for the Town of  
909 Ellendale an ample supply of pure water and to purchase, lease, erect, construct, maintain, operate and control wells,  
910 reservoirs, pumping machines and stations, water mains, fire hydrants and all other instruments for the collection, storage,  
911 conveyance and distribution of water on, over under or through the lands of any person. The Council shall have power to  
912 enact ordinances, rules and regulations, in regard to the use for public or private purposes of water furnished by the Town,  
913 and the amounts to be paid by the user thereof, and to fix fines, or penalties, or both for any willful or negligent injury or  
914 damage to, or interference with the water system of the Town. The Council may, at its option, furnish water from the Town  
915 system to places and properties outside the Town limits upon such special terms, charges and conditions as it shall deem  
916 wise.

917 The Council may, by condemnation proceedings, take private land, or the right to use private lands, under, over or  
918 on the surface thereof, for the proper operation or extension of the water system. The proceedings by condemnation under  
919 this Section shall be the same as prescribed in Section 24 of this Act for the opening and laying out of new streets, and the  
920 resolutions referred to in said Section 24 shall be changed and modified to cover the cases contemplated by this present  
921 Section.

922 **Sewer System**

923 **Section 28.**

924 The Town Council is hereby vested with full power and authority, after approval of a majority of votes cast at a  
925 referendum therefor pursuant to the procedure set forth in Section 31, subsection K through P, to provide, construct, extend,  
926 maintain, manage and control a sewer system for the health, sanitation and convenience of the inhabitants of the said Town,  
927 on, over, under or through the lands of any person. The Council shall have power to enact ordinances, rules and regulations  
928 regarding the sewers and the sewer system of the Town and the use thereof, and the amounts to be paid by the users thereof,  
929 and to fix fines or penalties, or both, for any willful or negligent injury or damage to or interference with the said sewers or  
930 sewer system of the Town. The Council may at its option furnish sewer facilities to places and properties outside of the  
931 Town limits upon such special terms, charges and conditions as it shall deem wise. The Council may require any property  
932 in the Town, for which there is any available sewer, to be connected with the sewer system and may compel the owner of  
933 such property to pay the cost of such connection and the tapping fee therefor, as provided in Section 23 of this Act. The  
934 Council may, by condemnation proceedings, take private land, or the right to use private land, under, over or on the surface  
935 thereof, for the proper operation or extension of the sewers and sewer system of the Town. The proceedings by  
936 condemnation under this Section shall be the same as prescribed by Section 24 of this Act, for the opening and laying out of  
937 new streets, and the resolutions referred to in said Section 24 shall be changed and modified to cover the cases  
938 contemplated by this present Section.

939 **Electric, Current, Power Plant, Franchises**

940 **Section 29.**

941 The Town Council of the Town of Ellendale shall have full power and authority, after approval of a majority of  
942 votes cast at a referendum therefor pursuant to the procedure set forth in Section 31, subsection K through P, to erect,  
943 construct, equip, maintain and operate a plant or plants for the generating and manufacturing of electric current for the use  
944 of the inhabitants of said Town and for lighting of streets, squares, lanes, alleys and public places and buildings of said  
945 Town and shall have full power and authority to construct, erect, maintain, improve, extend, equip and operate such  
946 transmission and distributing lines for said current as may be necessary to properly light said Town and to furnish proper



947 connections for electric current to the properties of the inhabitants thereof who may desire the same. The Council shall have  
948 power to make contracts for the purchase of heat, light, sewer, water and electric current with any responsible persons,  
949 firms, or corporations and to distribute the same to users within or without the said Town with the same full powers as if  
950 such heat, light, power, water or electric current had been generated or manufactured by the said Town as herein expressly  
951 provided for by this Act. Council shall grant to all persons whosoever in said Town the privilege of using the electric  
952 current conveyed and distributed by said Town in such manner and on such terms and conditions and at such rates and for  
953 such amounts as to the Council may seem just and proper and shall enact such ordinances relating to electric current, its  
954 generation and distribution in said Town and the regulation of the connections thereof with the properties of individuals in  
955 said Town and its general management and control as to said Council shall from time to time seem most expedient. The  
956 council may at its option transmit electric current from said Town to places and properties outside of the Town limits upon  
957 such terms, charges and conditions as it shall deem wise.

958           The Town Council shall also have full power and authority at any regular or special meeting, by a majority vote, to  
959 enact ordinances or adopt resolutions granting franchises to any responsible person, firm, association or corporation, and  
960 for such terms of years as shall seem wise to said Council to use the present and future streets, squares, alleys, and lanes of  
961 the said Town for purposes of furnishing light, heat, power, gas, television services, or water, or any or all of them to said  
962 Town and to the persons, firms, or corporations residing therein and for the purpose of transmitting light, heat, power, gas,  
963 television services, and water, or any or all of them through, over, across or under said streets, squares, alleys and lanes to  
964 points outside of the limits of said Town, any such franchise or franchises to contain such restrictions, conditions and  
965 stipulations as shall to said Council seem wise, and said Council, by a majority vote, at any regular or special meeting, shall  
966 also have full power and authority to enter into contracts with any responsible persons, firms, associations or corporations  
967 for the furnishing of electric current, either at wholesale or retail to said Town, and to persons, firms and corporations  
968 residing therein. or adjacent thereto.

969           The ~~Councilmen~~ Councilmembers may, by condemnation proceedings, take private land and property, or the right  
970 to use private land and property, under, over, or on the surface thereof, for the proper operation, manufacture or extension  
971 or distribution of gas or electric current as above provided. The proceedings by condemnation under this Act shall be the  
972 same as prescribed by Section 24 and shall be changed and modified to cover those cases contemplated by this particular  
973 Section of the Charter.

974           **Drainage**

975           **Section 30.**

976           The Town Council of said Town shall have the full jurisdiction and control within the limits of said Town of the  
977 drainage thereof, and the right to alter and change the course and direction of any of the natural water courses, runs or  
978 rivulets within the limits of the Town, and may pass ordinances for the opening of gutters, drains and sewers within said  
979 Town limits and the regulating and maintaining, cleaning and keeping the same and the natural water courses, runs and  
980 rivulets within the said Town limits open, clean and unobstructed, and for that purpose may authorize the entry upon  
981 private lands and take, condemn and occupy the same in the same manner and by the same condemnation proceedings as  
982 hereinbefore provided in case of the water and sewer systems of the said Town and as prescribed by Section 24 of this Act  
983 for the opening and laying out of new streets, and the resolutions referred to in said Section 24 shall be changed and  
984 modified to cover the cases contemplated by this present Section. The Town Council may by an ordinance or by a  
985 resolution levy a tax upon all or a portion of the citizens for drainage, as set forth under Section 15 thereof.

986           **Procedure For Referendum**

987           **Section 31.**

988           (A) Qualified voters of the Town of Ellendale shall have the power to require reconsideration by the Town  
989 Council of any adopted Ordinance and to approve or reject it at an election as provided herein; provided, however, that such  
990 power of referendum shall not extend to the budget or capital program or any emergency ordinance or any ordinance  
991 relating to the appropriation of money or any ordinance relating to the levy of taxes.

992           (B) A Referendum Petition, signed by qualified voters of the Town of Ellendale entitled to register and vote in the  
993 Annual Municipal Election if such Annual Municipal Election were held on the day that the Referendum Petition was  
994 signed by such qualified voter, whether or not such voter is a registered voter, containing signatures equal in number to at  
995 least forty percent (40%) of the total number of voters who voted in the Annual Municipal Election next preceding the  
996 execution of the Referendum Petition with the local address of the person so signing, or forty-five (45) residents and  
997 property owners, qualified as aforesaid, which ever is greater, shall be presented to the Town Council at the next regular  
998 meeting of the Town Council following adoption of the ordinance sought to be reconsidered. Each copy of such petition  
999 shall contain and have attached thereto throughout its circulation the full text of the ordinance sought to be reconsidered.

1000           (C) Each copy of the petition shall have attached to it, when filed, an affidavit executed by the signer thereof  
1001 stating that he/she personally circulated the petition, the number of signatures thereon, that all signatures were affixed in  
1002 his/her presence, that he/she believes them to be the genuine signatures of the persons whose names they purport to be, that  
1003 each such person who signed it is qualified to sign the petition and that each signer had an opportunity before signing, to  
1004 read the full text of the ordinance sought to be reconsidered.

1005 (D) A Petition for Referendum shall be filed at the next regular meeting of the Town Council following adoption  
1006 by the Town Council of the ordinance sought to be reconsidered or it shall not be the subject of a referendum. If there are  
1007 less than twenty-eight (28) days from the date of the adoption of the Ordinance sought to be reconsidered until the next  
1008 regular meeting of the Town Council of the Town of Ellendale, the Petition for Referendum shall be presented at the first  
1009 regular meeting following the expiration of the said twenty-eight (28) day period or the Ordinance sought to be  
1010 reconsidered shall not be the subject of a referendum.

1011 (E) Within twenty (20) days after the petition is filed with the Town Council at a regular meeting the Secretary  
1012 shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, and  
1013 shall promptly send a copy of the certificate to the circulator of such petition by certified mail with return receipt requested.  
1014 A petition certified insufficient for lack of the required number of valid signatures may be amended one (1) time if the  
1015 circulator files a Notice of Intention to Amend with the Secretary within two (2) days after receiving a copy of his/her  
1016 certificate and files a Supplementary Petition upon additional papers within five (5) days after receiving the copy of such  
1017 certificate. Such Supplementary Petition shall comply with the requirements of this Section concerning form, content, and  
1018 the affidavit of the circulator. Within five (5) days after it is file, the Secretary shall complete a certificate as to the  
1019 sufficiency of the petition, as amended, and shall promptly send a copy of such certificate to the circulator by certified mail  
1020 with return receipt requested, as in the case of the original petition. If the petition, or amended petition, is certified  
1021 sufficient, or if the petition or amended petition is certified insufficient, and the circulator does not elect to amend or  
1022 request a review of the sufficiency of the certificate by the Town Council of the Town of Ellendale within the time  
1023 required, the Secretary shall promptly present his/her certificate to the Town Council at the next regular meeting and the  
1024 certificate shall then be a form of determination as to the sufficiency of the petition

1025 (F) If a petition has been certified to be insufficient and the circulator has not filed Notice of Intention to amend, or  
1026 if an amended petition has been certified insufficient, the circulator may, within two (2) days after receiving the copy of  
1027 such certificate file a request that it be reviewed by the Town Council. The Town Council shall review the certificate at the  
1028 next regular meeting following the filing of such request, and approve or disapprove it, and the determination of the Town  
1029 Council shall be a final determination as to the sufficiency of the petition.

1030 (G) Any person or persons, jointly or severally, aggrieved by the decision of the Town Council may present to the  
1031 Superior Court of the State of Delaware, a petition duly verified setting forth that such decision is invalid, in whole or in  
1032 part, specifying the grounds of such invalidity. Such petition shall be presented to the Court within thirty (30) days  
1033 following the determination by the Town Council as to the insufficiency of such petition. Upon presentation of the petition,  
1034 the Court may allow a Writ of Certiorari direct to the Town Council of the Town of Ellendale to review such decision of the

1035 Town Council and shall prescribe therein the time within which a return thereto must be made and served upon the  
1036 petitioner or his/her attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance  
1037 of the Writ shall stay proceedings upon the decision or determination appealed from The Court may reverse or affirm,  
1038 wholly or partly, or may modify the determination brought up for review.

1039 (H) Upon the filing of the Petition for a Referendum with the Secretary, the ordinance sought to be reconsidered  
1040 shall be suspended from taking effect. Such suspension shall terminate upon the happening of any of the following events.

1041 (1) There is a final determination of insufficiency of the Petition; or

1042 (2) The Petition is withdrawn by the circulators thereof or sufficient copies thereof are withdrawn so that there are  
1043 insufficient numbers of signatures as required by this Section; or

1044 (3) The ~~Councilmen~~ Councilmembers repeal the ordinance; or

1045 (4) Thirty (30) days have elapsed after a vote by the voters on the ordinance; or

1046 (5) There is a final determination by the Superior Court.

1047 (I) The Town Council shall reconsider the referred ordinance at the first regular meeting after the Petition for a  
1048 Referendum has been finally determined to be sufficient. If the Town Council fails to repeal the referred ordinance, the  
1049 referred ordinance shall be submitted to the voters of the Town of Ellendale at an election.

1050 (J) The vote of the residents and property owners of the Town of Ellendale on a referred ordinance shall be held  
1051 not less than thirty (30) days and no later than ninety (90) days from the date that the petition is determined to be sufficient.  
1052 If the annual Municipal Election is to be held within the period prescribed in this Section, such referendum shall be  
1053 considered as part of that election. If the Annual Municipal Election is not to be held within the period prescribed in this  
1054 section, the Town Council of the Town of Ellendale shall provide for a special election. If the Town Council fails to hold a  
1055 referendum within the time specified in this section, the ordinance for which the petition was filed shall be deemed to be  
1056 repealed at the expiration of ninety (90) days from the date that the petition was considered to be sufficient, and shall not be  
1057 passed in the same form for a period of six (6) months from the effective date of repeal.

1058 (K) At the said special Election, every person, male or female, who shall have attained the age of eighteen (18)  
1059 years, and who shall be a ~~freeholder~~ resident or leaseholder in the Town of Ellendale for a period of six (6) months  
1060 immediately preceding the date of such Special Election, and who shall be a resident of the State of Delaware and of the  
1061 Town of Ellendale shall have one (1) vote provided such person is registered on the corporate "Books of Registered Voters"  
1062 of the Town of Ellendale as prescribed in this Charter. Any person who shall register on the "Books of Registered Voters"  
1063 shall be entitled to vote in the Special Election provided by this Section.

1064 A person may register at the Office of the Town Clerk during the regular office hours on any day in order to vote  
1065 in the Special election until the close of business on the second Friday prior to the date of said Special Election. Any person  
1066 registered to vote in the Annual Municipal Election shall not be required to register in order to vote in the Special Election  
1067 to be held pursuant to this Section. The "Books of Registered Voters" shall be conclusive evidence of the right of any  
1068 person to vote at the Special Election.

1069 (L) The notice of the time and place of holding the said Special Election shall be printed in at least two (2) issues  
1070 of a newspaper having a general circulation in the Town of Ellendale within thirty (30) days immediately preceding the date  
1071 of the Special Election.

1072 (M) The President of the Town Council shall appoint three (3) persons to act as a Board of Special Election, if a  
1073 Special Election is required. The polling place shall be open from eleven O'clock (11:00) in the morning, prevailing time,  
1074 until seven o'clock (7:00) in the evening, prevailing time, on the date set for the Special Election. Persons in the polling  
1075 place at seven O'clock (7:00) in the evening, shall be entitled to vote even though such votes may be cast after seven o'clock  
1076 (7:00) in the evening.

1077 (N) Immediately after the closing of the polling place or places, the Board of Special Election the Board of  
1078 Election if the referendum is held on the day of the Annual Municipal Election, as the case may be, shall count the ballots  
1079 for and against the proposition as presented, and shall announce the results thereof. The Board of Special Election or the  
1080 Board of Election, as the case may be, shall make a certificate under their hands of the number of votes cast for and against  
1081 the proposed ordinance and the number of void votes, and shall deliver the same to the Town Council. The said certificate  
1082 shall be filed with the papers of the Town Council of the Town of Ellendale.

1083 (O) The form of the ballot of the said Election, whether the same be considered at the Annual Municipal Election  
1084 or at a Special Election shall be as follows:

1085 For the Referred Ordinance\_\_\_\_\_

1086 Against the Referred Ordinance\_\_\_\_\_

1087 (Check your Preference)

1088 Paper ballots may be used in any Special Election on a referral of an ordinance. The Town  
1089 Council shall cause to be prepared and printed a sufficient number of ballots not less than five

1090 (5) days prior to the date of the Special Election. Voting machines shall be used if the  
1091 referendum is held on the day of the Annual Municipal Election.

1092 (P) If the majority of the residents and property owners voting on a referred ordinance vote against such ordinance,  
1093 it shall be considered repealed upon the certification of the result of the election by the Board of Special Election in the case

1094 of a Special Election or upon the certification by the Board of Election in the case of such referendum being held on the day  
1095 of the Annual Municipal Election. No ordinance which has been repealed as a result of a referendum shall be passed again  
1096 in the same form by the Town Council of the Town of Ellendale for a period of six (6) months from the date of the  
1097 referendum.

1098 **Compendium**

1099 **Section 32.**

1100 The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within  
1101 the power and functions of the Town, or relating to the government of the Town, its peace and order, its sanitation, beauty,  
1102 the health, safety, convenience and comfort of its population, and the protection and preservation of property, and to fix,  
1103 impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions; and no provision  
1104 of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or  
1105 resolutions on any subject not specifically enumerated.

1106 It shall be the duty of the ~~Councilmen~~ Councilmembers, at reasonable times, to compile the ordinances, codes,  
1107 orders, and rules of the Council of the Town of Ellendale. It shall have a reasonable number of copies printed for the use of  
1108 the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, codes, rules  
1109 and regulations, or upon the enactment of amendments to the same, the Council shall enroll the same in the Minutes of the  
1110 Council and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily  
1111 examined. It shall furnish to the President of the Town Council of the Town of Ellendale copies thereof as they are enacted,  
1112 and therefrom may cause supplements to be compiled and printed to any compendium thereof heretofore printed as above-  
1113 provided. By virtue hereof, all ordinances heretofore adopted by a majority vote of the Town Council of the Town of  
1114 Ellendale, as the same was composed at the time of the enactment of these provisions into law, shall be given the full force  
1115 and effect of law, notwithstanding any previous Charter provisions superceded hereby to the contrary.

1116 **Health**

1117 **Section 33.**

1118 (A) The power to adopt ordinances relating to the health of the population of the Town, or to prevent the  
1119 introduction or spread of infections or contagious diseases or nuisances affecting the Town, shall extend to the area outside  
1120 of the Town limits, and within one mile from said limits.

1121 **Fire**

1122 (B) The Council shall have the power to adopt all measures requisite or appropriate for protection against fire, and  
1123 to appropriate money for the purpose of fire equipment, whether owned by the Town or by a Volunteer Fire Company.

1124           **Zoning**

1125           (C) For protection against fire, the Council may adopt ordinances to zone or district the Town and to make  
1126 particular provisions for particular zones or districts with regard to buildings and building materials; to prohibit the use of  
1127 building materials that may be deemed to create a fire hazard, and this power shall embrace new buildings or additions to or  
1128 alterations of existing structures of every kind; to condemn buildings or structures, or portions thereof, that constitute a fire  
1129 menace, and to require or cause the same to be torn down, removed, or so altered as to eliminate the menace of fire; to  
1130 prescribe the height and thickness of walls of any building and the kind and grade of materials used in the construction  
1131 thereof; to establish a building line for buildings to be erected, provided that such building line shall not be established  
1132 more than ten feet back from front line of the lots.

1133           The Council may adopt zoning ordinances limiting and specifying districts and regulating thereon buildings and  
1134 structures according to their construction and according to the nature and extent of the business to be carried on therein.

1135           The powers to be exercised under and by virtue of this provision shall be deemed to have been exercised under the  
1136 police power and for the general welfare of the inhabitants.

1137           The Council may create a Town Zoning Commission for the development, improvement and beautification of the  
1138 Town, and may prescribe its powers and duties.

1139           **Building Inspection Permits**

1140           (D) The Council may provide for the issuance of building permits, and may forbid the construction of any new  
1141 building, or the addition to, or alteration, or repair of any existing building unless a building permit has been obtained  
1142 therefor.

1143           Should any person, firm or corporation hereafter desire to erect any building or buildings within the corporate  
1144 limits of said Town for the purpose of conducting therein the business of canning fruits, vegetables, meats, oysters, etc. or  
1145 for the manufacture or manipulation of phosphate, fertilizer or manures of any kind, he/she or they before erecting any such  
1146 building or buildings, or engaging in such business, shall make an application in writing for permission therefor to said  
1147 Council. And should said Council determine that such building will not endanger the other property of the Town, and said  
1148 business will not jeopardize the health of or be offensive to the citizens thereof, the Council shall have the authority to grant  
1149 a permit to erect such buildings and conduct such business.

1150           The Council shall have full power to fix and determine the placing and replacing of poles or other structures within  
1151 the Town limits for the carrying of telegraph, telephone, power or other wires, and the attachments thereto, and to cause  
1152 existing poles or structures to be removed whenever the same shall be deemed to be obstructions or detrimental to the  
1153 beauty of the Town, or when such poles or structures are so placed as to inconvenience persons or render property less

1154 desirable. This power shall extend as well to the location as to the relocation of such poles and structures, wires, and  
1155 attachments, and may be exercised from time to time as occasion shall arise.

1156 **Licenses**

1157 **Section 34.**

1158 The Council shall have the right to grant or refuse licenses for boxing exhibitions and other sports, to circuses,  
1159 theatrical or minstrel companies, or like things, and exhibits or parades thereof, or the posting of bills for the advertisement  
1160 thereof, to pool or billiard rooms and other places of amusement; to peddlers or canvassers, to any person having only a  
1161 temporary place of business for selling or offering for sale goods, wares and merchandise; to Peddlers of meats, fish,  
1162 oysters or vegetables and the location of wagons or stalls, provided that the Council shall not have the power to permit, by  
1163 the license, interference with any place of business or with the convenience of public travel; to provide for the payment of  
1164 taxes, fines, penalties, and forfeitures by performance of labor for the Town by those who may owe taxes, fines, penalties or  
1165 forfeitures and to make proper regulations and rules therefor.

1166 **Trees**

1167 **Section 35.**

1168 Trees being among the chief beauties of the Town, and their preservation requiring that they be treated with  
1169 special care and intelligence, the Council is empowered to create a Tree Commission for the trees in the streets, and other  
1170 public places of the Town, and to appropriate annually an amount of money adequate for their care and preservation. The  
1171 Tree Commission may be given authority to take necessary or appropriate action to prevent injuries to trees from electric  
1172 wires or from any other source or cause whatsoever, and to combat the pests and diseases to which they are subject, and  
1173 when necessary to employ experts provided that they do not exceed the appropriation regulations made by the Council.

1174 **Penalties**

1175 **Section 36.**

1176 The Council shall have the power to enact ordinances, rules and regulations and to fix the penalties for violations,  
1177 thereof relating to the use of streets, highways, lanes, and alleys, the parking of vehicles thereon, with the power to prohibit  
1178 parking on streets, or portions thereof, entirely or within certain hours, or for certain lengths of time. [71 Del. Laws, c. 388](#)

1179 **LIMITATION OF ACTIONS**

1180 **Section 38.**

1181 No action, suit or proceeding shall be brought or maintained against the Town of Ellendale for damages either  
1182 compensatory or punitive, on account of any physical injury or injuries, death or injury to property by reason of the  
1183 negligence of the Town ~~Councilmen~~ Councilmembers of the Town of Ellendale, or any of its departments, officers, agents,



1184 or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted within one (1) year from  
1185 the happening of such injury or the suffering of such damage, shall notify the ~~Councilmen~~ Councilmembers of the Town of  
1186 Ellendale in writing of the time, place, cause, character and extent of the injuries sustained so enrolled or damages suffered.  
1187 Any suit brought against the ~~Councilmen~~ Councilmembers of the Town of Ellendale shall be against them only in their  
1188 capacity as representatives of the Town Government and not as individuals.

1189 **Investigations**

1190 **Section 39.**

1191 The Town ~~Councilmen~~ Councilmembers of the Town of Ellendale shall have the power to inquire into and  
1192 investigate the conduct of any office, officer or employee of the Town and to make investigations of all municipal affairs,  
1193 and, for any such purpose or purposes, shall have the power to subpoena witnesses, administer oaths and compel the  
1194 production of books, papers or other evidence.

1195 **Annexation**

1196 **Section 40.**

1197 Annexation of Territory. Subject to state laws of general application to municipalities pertaining to annexation of  
1198 territory, the ~~town~~ Town shall have power to annex any additional contiguous territory adjoining the corporate limits of the  
1199 ~~town~~ Town as hereinbefore set forth or as hereafter extended pursuant to the procedure set forth in this section, and to apply  
1200 to all such additional territory all laws, ordinances, resolutions, and policies in force in the ~~town~~ Town so far as they may be  
1201 locally applicable. For purposes of this section, "contiguous" means that a part of the boundary of the territory sought to be  
1202 annexed is coterminous with a part of the boundary of the municipal corporation.

1203 40.1 Initiation of annexation proceedings.

1204 40.1.1 By petition of the property owners. Any property owner(s) holding record fee simple to real property in  
1205 territory contiguous to the then-existing corporate limits of the ~~town~~ Town may petition the Town Council to annex that  
1206 certain territory in which they own property. Such petition shall be in writing, duly executed and acknowledged by each  
1207 petitioner, shall describe with reasonable certainty the territory proposed for annexation, indicate the property owned by  
1208 each petitioner therein, state the reasons for the requested annexation, and identify the proposed zoning district  
1209 classification(s) for such territory (which proposed zoning classifications shall be consistent with the ~~town's~~ Town's  
1210 comprehensive plan). The Town Council may, within 90 days following the filing of such petition in the ~~town~~ Town office,  
1211 vote to accept such petition and proceed as hereinafter provided, or to reject such petition. Any petition not so accepted  
1212 within said 90 days shall be null and void.

1213 40.1.2 Resolution of the Town Council. The Town Council may, at any time, adopt a resolution proposing the  
1214 annexation of any territory(s) contiguous to the ~~town~~ Town. Such resolution shall describe, with reasonable certainty, the  
1215 territory(s) proposed to be annexed, state the reasons for the proposed annexation, and identify the proposed zoning district  
1216 classification(s) for such territory(s) (which proposed zoning classifications shall be consistent with the ~~town's~~ Town's  
1217 comprehensive plan). Upon adoption of such resolution, the Town Council shall proceed as hereafter provided.

1218 40.1.3 For purposes of this section 40, "territory contiguous to the then-existing corporate limits of the ~~town~~  
1219 Town" shall include both real property which, although itself not contiguous to the ~~town's~~ Town's then-existing corporate  
1220 limits, is contiguous to other real property which is contiguous to the ~~town's~~ Town's existing corporate limits and is  
1221 proposed to be included in the annexation, as well as real property which would be contiguous under section 40.9.

1222 40.2 Preliminary Annexation Procedures. Whether annexation is proposed by petition of the property owners or by  
1223 resolution of the Town Council, the following preliminary procedures shall be complied with:

1224 40.2.1 First Resolution. The Town Council shall adopt a resolution notifying the property owners and the residents  
1225 of both the ~~town~~ Town and the territory proposed to be annexed, that the ~~town~~ Town proposes to annex certain territory  
1226 which adjoins its then corporate limits ("First Resolution"). The resolution shall contain a description of the territory  
1227 proposed to be annexed, shall identify the zoning district classification(s) proposed for such territory if annexed (which  
1228 proposed zoning classifications shall be consistent with the ~~town's~~ Town's comprehensive plan), shall indicate whether any  
1229 annexation agreement is being considered in connection therewith, and shall fix a time and place for a public hearing on the  
1230 subject of the proposed annexation and zoning. Such resolution may also provide that if the annexation is finally approved,  
1231 the ~~town~~ Town shall not be obligated to extend any municipal facilities or improvements unless and until the Town  
1232 Council, in the sole exercise of its reasonable discretion, determines that it is appropriate for the ~~town~~ Town to do so or the  
1233 owner or developer of any property so annexed (or any portion thereof) binds itself, with reasonable surety acceptable to  
1234 the ~~town~~ Town, to pay in full all costs and expenses to extend or construct such municipal facilities and improvements to  
1235 serve such lands (in strict accordance with all governing federal, state, and ~~town~~ Town regulations and standards), subject  
1236 to an appropriate "recapture agreement" (acceptable to the ~~town~~ Town) pursuant to which the owner(s) or developer(s) of  
1237 other lands benefited by the extensions or improvements paid for by the initial owner/developer under the recapture  
1238 agreement would pay to the town their equitably-determined proportionate share of such costs and expenses (as a condition  
1239 precedent to obtaining such extensions and/or improvements) which amounts the ~~town~~ Town would, upon receipt, rebate to  
1240 the owner or developer which had originally paid for those extensions and/or improvements.

1241 40.2.2 Referral to Planning Commission. The Town Council shall forward a copy of the aforesaid resolution,  
1242 along with any proposed annexation agreement(s) in connection therewith, to the Planning Commission for its advisory

1243 review and comment. The Planning Commission's recommendations and comments shall be submitted to the Town Council  
1244 at or before the public hearing held pursuant to section 40.2.4, provided that if such recommendations or comments are not  
1245 received from the Planning Commission at or prior to such public hearing, the Town Council may proceed without the  
1246 benefit thereof.

1247 40.2.3 Compliance with State Statutes of General Application. To the extent required thereby, the Town Council  
1248 shall comply with the applicable provisions of 29 Del.C. Chapters 92 and 93, and 22 Del.C. Section 101 (as those  
1249 provisions may from time to time hereafter be amended, or in accordance with any future corresponding provisions of law).

1250 40.2.4 Public Hearing. The Town Council shall provide notice of the public hearing at least 30 days prior to the  
1251 date of such hearing. Notice thereof shall be given as follows:

1252 (1) Form of Notice. All notices required by this section shall set forth the following  
1253 information:

1254 (A) subject of the hearing (to consider annexation petition)

1255 (B) date, time, and place of the hearing

1256 (C) description of the subject property(s), to include approximate size, street address, owners of record, location in  
1257 relation to nearest road(s), tax map parcel number, and deed reference

1258 (D) description of any applicable annexation agreement

1259 (E) the right to submit written comments prior to the conclusion of the public hearing

1260 (2) Notice by Mail. A copy of such written notice shall be mailed to:

1261 (A) the record owner(s) of the subject parcel(s); written notice to one co-owner shall suffice as notice to all

1262 (B) the record owner(s) of all abutting parcels; written notice to one co-owner shall suffice as notice to all

1263 (C) the Delaware Office of State Planning Coordination

1264 (D) the Sussex County Council

1265 (E) the Delaware Department of Public Safety and Homeland Security

1266 (F) the Ellendale Volunteer Fire Company

1267 (G) the Milford School District

1268 (H) the Delaware Department of Transportation

1269 (3) Notice by Posting. A copy of such notice shall be posted:

1270 (A) at the Ellendale Town Hall

1271 (B) at not less than two other public places in the Town

1272 (C) on each parcel of land which is the subject of the annexation petition

1273 (4) Notice by Publication. A copy of such notice shall be published at least once in a newspaper of general  
1274 circulation in the Town and its general environs.

1275 (5) Controlling Date. Where all forms of notice are not provided on the same date, the date of the last form of  
1276 notice shall be controlling as regards calculating the number of days notice provided.

1277 (6) Conduct of Public Hearing. At the time, date, and place specified in the resolution proposing annexation (or at  
1278 any revised date, time, or place if duly noticed as provided in section 40.2.4) the Town Council shall sit to hear comments  
1279 and opinion from any concerned party (and to receive the recommendations and comments of the Planning Commission, if  
1280 any) regarding the proposed annexation, any proposed annexation agreement(s) and the proposed zoning district  
1281 classification(s). In addition to speaking at such hearing, or in lieu thereof, any interested party may submit written  
1282 comments to the Town Council at any time prior to the conclusion of the hearing. Where such annexation was proposed by  
1283 the Town Council under section 40.1.2, the owners of record of such lands may submit their written and notarized consent  
1284 to such annexation prior to the conclusion of the public hearing. Such public hearing shall be for the purpose of obtaining  
1285 public opinion and legislative fact finding, and the Town Council shall remain free to exercise complete legislative  
1286 discretion in making its determination with regard to any proposed annexation.

1287 40.3 Where annexation of ten (10) contiguous acres or less requested or consented to by record owners  
1288 ~~Annexation of Five Contiguous Acres or Less Requested or Consented to by Record Owners~~. Where an annexation  
1289 proposal involving ~~five~~ ten (10) contiguous acres or less is either initiated at the written petition of all of the owner(s) of  
1290 record of such parcel(s), or consented to in a notarized writing signed by all the owners of record of such parcel(s) and  
1291 submitted to the Town Council no later than the conclusion of the public hearing held pursuant to section 40.2.4, the Town  
1292 Council may, at any duly noticed regular or special meeting held within six months of the public hearing, vote to accept or  
1293 to reject such proposed annexation(s) and, if to accept, to proceed in accordance with section 40.5. 77 Del. Laws, c. 377,  
1294 §10

1295 40.4 Where proposed annexation exceeds ten (10) contiguous acres and/or not requested by or consented to by all  
1296 ~~owners of record Proposed Annexation Exceeds Five Contiguous Acres and/or Not Requested By Or Consented To By All~~  
1297 ~~Owners Of Record~~ (“Second Resolution”). Where the lands proposed for annexation exceed ten (10) contiguous acres ~~five~~  
1298 ~~contiguous acres and/or~~ where all of the owners of record to any parcel of land proposed for annexation have neither  
1299 requested or consented to annexation by the close of the public hearing, the Town Council may, at any time within the six  
1300 months following the public hearing, pass a resolution ordering a special election to allow the owners and residents of all  
1301 lands proposed for annexation and of all lands within the existing municipal limits to approve or reject such annexation  
1302 (“Second Resolution”). Such special election shall be held not less than 30 days, nor more than 60 days after the date of the

1303 resolution ordering the special election. Such resolution shall identify the zoning district classification(s), consistent with  
1304 the comprehensive plan, which shall be assigned to the territory(s) if annexed, and indicate if the annexation is subject to an  
1305 annexation agreement. The passage of this resolution shall ipso facto be considered the determination of the Town Council  
1306 to proceed with the proposed annexation, zoning district classification, and annexation agreement (if applicable) if the  
1307 results of the election are in favor of the annexation. [77 Del. Laws, c. 377, §11](#)

1308 40.4.1 Notice of Special Election. The Town Council shall give notice of the special election not less than 15 days  
1309 prior to the date of the election as follows:

1310 (1) Form of Notice. All notices required by this section shall set forth the following information:

1311 (A) subject of the special election (to approve annexation)

1312 (B) date, time, and place that the polls will be open

1313 (C) description of the subject property(s), to include approximate size, street address, owners of record, location in  
1314 relation to nearest road(s), tax map parcel number, and deed reference

1315 (D) the proposed zoning designation(s)

1316 (E) qualifications of voters entitled to vote

1317 (F) If such annexation is subject to an annexation or “re-capture” agreement, and if so, a brief description thereof,  
1318 and that copies thereof are available for inspection at the Town Hall.

1319 (2) Notice by Mail. A copy of such written notice shall be mailed to:

1320 (A) the record owner(s) of the subject parcel(s)

1321 (B) the residents of the subject parcel(s) as known to the Town

1322 (3) Notice by Posting. A copy of such notice shall be posted:

1323 (A) at the Ellendale Town Hall

1324 (B) at not less than two other public places in the Town

1325 (C) on each parcel of land which is the subject of the annexation election

1326 (4) Notice by Publication. A copy of such notice shall be published at least once in a newspaper of general  
1327 circulation in the Town and its general environs.

1328 (5) Controlling Date. Where all forms of notice are not provided on the same date, the date of the last form of  
1329 notice shall be controlling as regards calculating the number of days notice provided.

1330 40.4.2 Those entitled to vote.

1331 (1) Qualifications to Vote. At such special election, any person residing within the existing municipal limits who  
1332 would be entitled to vote at the annual ~~town~~ Town election, and any person residing in the area proposed to be annexed who

1333 would be entitled to vote at the annual ~~town~~ Town election if the area proposed to be annexed was already included in the  
1334 ~~town~~ Town, shall be entitled to one vote. (For purposes of this section, as to those persons residing in the area proposed for  
1335 annexation, "lawfully entitled to vote" shall not include "registered to vote" if registration is required for ~~town~~ Town  
1336 elections). In addition, each legal entity or natural person holding record title in its own name to lands located within the  
1337 existing municipal limits or in the territory proposed to be annexed, shall be entitled to one vote. All persons appearing to  
1338 vote shall be required to provide satisfactory proof of identity and of their property ownership or residency.

1339 (2) "One man, One Vote". These provisions shall be construed so as to permit only "one-man, one vote." Where a  
1340 voter is entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one vote;  
1341 where a voter is entitled to vote by ownership of two or more properties, that voter shall be entitled to only one vote.  
1342 Provided, however, that a voter qualifying to vote in the election conducted for the residents and property owners of the  
1343 existing municipal limits and also in the election conducted for the residents and property owners of the lands proposed to  
1344 be annexed shall be entitled to cast one vote in each election.

1345 (3) Powers of Attorney. Any legal entity (other than a natural person) entitled to vote must cast its vote by a duly  
1346 executed and acknowledged power of attorney. Any natural person may cast his/her vote by a duly executed and notarized  
1347 power of attorney. Such power of attorney shall be surrendered to the board of special election. Such power of attorney so  
1348 filed shall constitute conclusive evidence of the right of said person to vote in the special election on behalf of the legal  
1349 entity or natural person granting the power.

1350 40.4.3 Conduct of the special election. The Town Council shall conduct two simultaneous elections: one for the  
1351 residents and property owners within the existing municipal limits, and one for the residents and property owners of the  
1352 lands proposed for annexation. The Town Council may cause voting machines, electronic voting systems, or paper ballots  
1353 to be used in the special election, as required by law, the form of ballot to be printed as follows:

1354 \_\_\_\_\_ For the proposed annexation.

1355 \_\_\_\_\_ Against the proposed annexation.

1356 40.4.4 Board of Special Election. At the same meeting where the Town Council sets the date for the special  
1357 election, the Town Council shall appoint three persons to act as a board of special election. One of the said persons so  
1358 appointed shall be designated the presiding officer. The board of special elections shall oversee the conduct of the special  
1359 election and shall be the sole and final judges of the legality of the votes offered at such special election. It shall keep a true  
1360 and accurate list of all natural persons and other legal entities voting. Voting shall be conducted in a public place as  
1361 designated by the resolution calling the special election. The polling place shall be open for such period of time as the  
1362 Town Council determines to be reasonable and appropriate under the circumstances, not less than six hours, as set by the

1363 Town Council, on the date set for the special election. All persons in the polling place at the time of the closing of the polls  
1364 shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls. The Board  
1365 shall provide for two separate ballot boxes or voting machines, one of which shall be for the qualified voters from within  
1366 the existing municipal limits and one of which shall be for the qualified voters of the lands proposed for annexation. All  
1367 ballots cast shall be deposited in the appropriate designated ballot box(es) or cast on the appropriate designated voting  
1368 machine(s).

1369 Immediately upon the closing of the polls, the Board shall separately count the ballots from each ballot box or  
1370 voting machine in favor of annexation and the ballots against annexation and shall promptly and publicly announce the  
1371 results thereof. The Board shall prepare a report of its activities and transmit such report (signed by all members of the  
1372 Board), together with any records and documents (including all powers of attorney and ballots, whether accepted or rejected  
1373 by the Board as invalid) to the Town Council within five days following the special election. Each member of the Board of  
1374 Election shall be paid such reasonable sum as determined by the Town Council for their services in connection therewith.  
1375 The Board of Special Election shall automatically be dissolved at the Town Council meeting where the report of the Board  
1376 is accepted by the Town Council.

1377 40.4.5 Expenses of Annexation Election. The Town shall pay all expenses necessary to conduct any special  
1378 annexation election, including the cost of providing public notice, printing ballots, preparing ballot boxes, compensation of  
1379 the members of the Special Board of Election, and any other documented and reasonable costs incurred by the Special  
1380 Board of Election in connection with the holding of the special election. The Town may charge fees to the owners of  
1381 properties seeking annexation to recover all of the Town's expenses related to conduct the special election for the  
1382 annexation(s).

1383 40.4.6 Results of special election.

1384 (a) In order for the annexation to succeed, it shall be approved by a majority of the votes cast in both the election  
1385 conducted for the voters within the existing municipal limits, and by a majority of the votes cast in the election conducted  
1386 for the voters within the lands proposed for annexation.

1387 (b) If the vote is favorable to the proposed annexation, the Town Council shall at its first meeting following the  
1388 special election proceed in accordance with section 40.5 to adopt a resolution annexing the said territory and including it  
1389 within the limits of the ~~town~~ Town ("final resolution"), as well as an ordinance designating the zoning district  
1390 classification(s) of the territory(s) so annexed.

1391 40.5 Adoption of Final Resolution; Notice to Agencies.

1392 40.5.1 Final Resolution. Whether acting pursuant to section 40.3 (annexation requested or consented to) or 40.4  
1393 (majority of votes at annexation election cast in favor of annexation) the Town Council shall adopt a resolution annexing  
1394 the said territory and including it within the limits of the ~~town~~ Town ("final resolution"). Contemporaneous therewith, the  
1395 Town Council shall also adopt an ordinance designating the zoning district classification(s) of the territory(s) so annexed,  
1396 which shall be consistent with the ~~town's~~ Town's comprehensive plan. If the initial resolution proposing annexation  
1397 provided that the ~~town~~ Town was not obligated to extend municipal facilities or improvements to the annexed lands as  
1398 provided in section 40.2.1, the resolution annexing such lands shall contain the same or substantially similar provisions.

1399 40.5.2 Upon the adoption of said resolution of annexation, copies thereof, signed by the President, and certified by  
1400 the secretary, together with a plot of the area annexed, shall forthwith be filed for record in the office of the Recorder of  
1401 Deeds in and for Sussex County, and delivered or mailed to the Office of State Planning, the Sussex County Administrator,  
1402 the Milford School District, the Ellendale Volunteer Fire Company, the Office of State Homeland Security, and the  
1403 Delaware Department of Transportation; provided however, that the failure to record such resolution, or the failure to  
1404 deliver or mail a copy thereof to all or any of the agencies specified herein shall not in any way effect the validity of the  
1405 annexation, but such recording may be enforced by writ of mandamus or mandatory injunction.

1406 40.5.3 Effect of Annexation. From the moment of adoption of the "final" resolution as set forth in section 40.5, the  
1407 lands so annexed shall be included within the municipal boundaries of the Town and shall be subject to all of the  
1408 jurisdiction and authority of the Town, the same as any other lands located within the Town's corporate limits.

1409 40.6 Simultaneous annexation proceedings. Provided that such parcels otherwise meet the requirements of this  
1410 charter for contiguity, nothing herein shall be deemed to require the Town Council to include all contiguous parcels  
1411 proposed for annexation as one "territory" in one annexation election, but the Town Council may, in its sole discretion,  
1412 simultaneously conduct an annexation election on each such parcel, or on such combinations of contiguous such parcels, as  
1413 it deems appropriate; nor shall anything herein prevent the Town Council, in its sole discretion, from combining two or  
1414 more contiguous parcels proposed for annexation into one "territory" for purposes of conducting an annexation election.

1415 40.7 Re-submission of proposed annexation. Nothing in this section shall prohibit the council from resubmitting a  
1416 proposal for annexation to the voters of said territory, or any portion thereof, under the authority of this section 40 and in  
1417 accordance with the provisions hereof.

1418 40.8 Annexation agreements. Notwithstanding any provision in the municipal charter of the Town of Ellendale to  
1419 the contrary, the Town Council is hereby authorized to enter into annexation agreements with the owners of record of any  
1420 lands proposed for annexation as a condition precedent to annexation. By way of example and not in limitation, such  
1421 agreements may address zoning, subdivision approval, site plan approval, tax relief, public utilities, impact fees, completion



1422 and maintenance bonds, and public improvements. No provision of any annexation agreement shall violate the ~~town's~~  
1423 Town's comprehensive plan. The Town Planning Commission shall review any annexation agreement submitted and make  
1424 a report or recommendation thereon to the Town Council no later than the public hearing required by section  
1425 40.2.4; provided, however, that if the Planning Commission shall fail to make a report or recommendation by the time of  
1426 the public hearing, the Town Council may act without such report or recommendation, and, in all events, the Town Council  
1427 shall not be bound by the report or recommendation of the Planning Commission, but the Town Council shall make the  
1428 final determination thereon. The Town Council may, with the concurrence of the entity petitioning for annexation, make  
1429 revisions to the annexation agreement without reconsideration thereof by the Planning Commission. In the event the Town  
1430 Council approves such an agreement, such annexation agreement, as reviewed and finally approved, shall be deemed a  
1431 material part of the annexation and shall be included in all applicable subsequent steps of the annexation procedure, that is:  
1432 (1) the resolutions and notices adopted by the Town Council in connection with any annexation election held pursuant to  
1433 section 40.4, shall recite that the proposed annexation includes and is subject to an annexation agreement, shall briefly  
1434 summarize its terms, and shall state that copies of the agreement are available upon request at the ~~town~~ Town hall; (2) the  
1435 final resolution annexing the territory (as provided by section 40.5) shall recite that the annexation is subject to an  
1436 annexation agreement and shall incorporate the terms of such agreement by specific reference; and (3) the public notice  
1437 establishing a 60-day statute of limitations to challenge the annexation (pursuant to section 40.10) shall recite that the  
1438 annexation is subject to an annexation agreement, shall briefly describe the terms thereof, and state that a copy thereof is  
1439 available for inspection at the Town Hall. The parties shall be bound to honor the provisions of such agreement unless  
1440 released therefrom by the other party; provided however, that no annexation agreement made at the time of annexation  
1441 under this section 40.8 shall extend beyond seven years from the date the property is annexed into the ~~town~~ Town; and such  
1442 agreements shall be null, void, and unenforceable after the expiration of said seven years.

1443 An annexation agreement may be modified or amended as to minor or non-substantive provisions by mutual  
1444 agreement of the parties thereto at any time prior to the adoption of the final resolution pursuant to section 40.5; but any  
1445 significant or substantive modification or amendment shall be deemed to be the submission of a new annexation agreement  
1446 and shall require that all applicable proceedings, commencing with section 40.2.1, be repeated with the new annexation  
1447 agreement.

1448 40.9 Property owned by the State of Delaware; highways, streets, roads, alleys, railroads, ponds, canals, streams  
1449 and other waters.

1450 (a) Real property owned by the State of Delaware may be annexed into the ~~town~~ Town without the State's casting  
1451 a vote in the special election, provided the state agency having control and supervision thereof does not notify the ~~town~~  
1452 Town, in writing, of its objection to such annexation within 30 days after notice of the public hearing.

1453 (b) Highways, streets, roads, alleys, and railroads; ponds, canals, streams, and other waters. Contiguity with the  
1454 ~~town's~~ Town's existing corporate limits, or with other territory which is itself contiguous with the ~~town's~~ Town's existing  
1455 corporate limits, shall not be deemed interrupted by the existence of any highway, street, road, alley, railroad, pond, canal,  
1456 stream, or other body of water running parallel with and between the parcel sought to be annexed, but nothing herein shall  
1457 be construed to allow rights of way, utility easements, waterways, or like features to be annexed in "corridor" fashion or to  
1458 be utilized as a corridor route for annexation to create contiguity.

1459 40.10 Limitations. No action contesting the annexation of any territory under this section shall be brought after the  
1460 expiration of 60 days from the publication of a notice in a newspaper of general circulation in the ~~town~~ Town and in the  
1461 territory annexed, which notice shall contain the following information:

1462 (a) Notice that the ~~town~~ Town has annexed such territory and a description thereof, together with the designated  
1463 zoning and, if subject to an annexation agreement, a brief description thereof and a statement that a copy thereof is  
1464 available for inspection at the Town Hall;

1465 (b) Notice that any person or other legal entity desiring to challenge such annexation must bring his/her/its action  
1466 within 60 days from the date of publication of such notice or forever be barred from doing so;

1467 (c) Such notice shall be in two-column or "display ad" format and in bold print or bordered in black in such  
1468 manner as to call attention thereto;

1469 (d) In addition to publication as herein provided, the Town Council shall cause a public notice, containing the  
1470 information set out in subsections (a) and (b) above (using date of "posting" for date of "publication"), to be posted at the  
1471 Town Hall and in at least two other public places in the ~~town~~ Town. In addition, a copy shall be posted on each parcel of  
1472 land subject to the annexation in a place viewable to the public.

1473 (e) In the event the publications and/or postings do not appear on the same date, the date of the last publication or  
1474 posting shall control.

1475 Section 2. If any provision of this Act or the application thereof to any person at circumstance is held invalid, such  
1476 invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision  
1477 or applications, and to that end the provisions of this Act are declared severable.

#### SYNOPSIS

This Act amends the Charter of the Town of Ellendale in the following ways:

1. Replaces the legal description in the Charter, instead referring to the legal description found in the Sussex County Recorder of Deeds.
2. Some technical corrections and updates to antiquated language.
3. Clarifies if a municipal election falls on January 1st, the election will be held on the Second Saturday of January.
4. Clarifies public notice requirements for Special Meetings of the Town Council.
5. Clarifies that in the absence of an ordinance regarding Quorum requirements, Mason's Rules of Order shall apply.
6. Clarifies that for a Councilmember to lose their seat, the crime being committed must be a felony
7. Public Notice of Council Meetings is to be posted at least one hour prior to the start of the meeting.
8. Removes from the Collection of Town Taxes from the Clerk's duties, and assigns those duties instead to a Collector of Taxes, as an alternative to the Town Treasurer.
9. In determining late fees, the Town will rely on a fee schedule, rather than 1% per centum per month.
10. Removes certain powers given to the Town by the Charter, such as the prevention of vice, prohibition of gaming, regulating the observance of the Sabbath, and the ability to levy a per capita tax on all eligible voters
11. Removes a \$50,000 limit on real estate taxes.
12. The town is now permitted to borrow \$100,000 on behalf of the town, as opposed to the previous limit of \$60,000.
13. In the Town Budget, it will no longer be required to include the value of supplies and materials on hand.
14. Raises the amount from \$5,000 to \$10,000 for contracts in which competitive bidding is not required.
15. Annexation requirements now are applicable when the proposed annexation exceeds 10 acres.
16. Exercise the powers given other municipalities as set out in the Municipal Tax Increment Financing Act and the Special Development District Act.
17. Enter into certain contracts without competitive bidding in connection with municipal tax increment financing and special development districts.
18. Collect special ad valorem taxes and special taxes related to the municipal development districts.
19. Levy special ad valorem taxes, special taxes, and ad valorem taxes in amounts it deems necessary for any municipal tax increment financing and any municipal development districts