SPONSOR: Sen. Simpson & Rep. Kenton
Reps. Postles, Wilson

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 82
AS AMENDED BY
SENATE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND THE CHARTER OF THE CITY OF MILFORD.

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

ARTICLE I. - INCORPORATION, TERRITORY AND ANNEXATION

1.01 - Incorporation.

The inhabitants of the City of Milford ("the City") within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

1.02 - Territorial Limits.

The boundaries of the City of Milford are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Offices for Kent County and for Sussex County in the State of Delaware (official recorded copies to be kept by the City Clerk) as presently exists and as hereinafter amended:

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to Section 1.04 of this Charter. The City Council may, at any time hereafter, cause a survey and plot to be made of the City, and the survey and plot, when made and approved by the City Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

1.03 - Wards.

The City of Milford shall be divided into four wards and a map entitled "Official Ward Map, Milford, Delaware" will delineate the ward boundaries with legal descriptions of each ward attached and kept on file in the Office of the City Clerk. The official ward map shall be identified by the signature of the Mayor, be attested by the City Clerk and bear the seal of the City. The map, legal descriptions and any future changes shall be recorded in both Kent and Sussex County

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within a reasonable time after the effective date of the amendment approved by City Council. City Council shall adopt the official map and any future amendments by ordinance.

~~The City Council may provide for a fifth Ward and re-arrange the boundaries of the four Wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.~~

1.04 - Annexation

The City may from time to time extend its boundaries through the process of annexation in accordance with the Delaware Code and the following procedures shall apply:

(a) All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, may request the City Council to annex that certain territory in which they own property.

(1) The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within ~~one~~ 1 year of the ap~~plication~~ petition), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.

(2) ~~If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee comprised of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.~~

If the Planning Director deems the petition complete, the petition shall be provided to the Mayor and City Council to be referred to the Annexation Committee. If the Annexation Committee is not duly constituted, the Mayor of the City of Milford shall appoint a Committee composed of not less than 3 of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than 90 days following referral of the petition to the Annexation Committee by the City Council the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the

Committee whether or not to proceed with the proposed annexation and the reasons therefore, as well as a recommended zoning district for the property to be annexed.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code. This Plan of Services must be completed for review and acceptance by all necessary agencies prior to final legislative action on the annexation.

(4) ~~The annexation/rezoning application shall also be referred to the Planning Commission for a Public Hearing and review and recommendation to City Council.~~

The annexation petition and zoning application shall also be referred to the Planning Commission for a Public Hearing and review and recommendation to City Council. Within ~~sixty (60)~~ 60 days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation petition and zoning application.

(5) Following the public hearing on the proposed annexation petition and subject to the acceptance of the Plan of Services, City Council may then ~~pass a resolution~~ adopt an ordinance annexing such territory to the City of Milford. Such ~~resolution~~ ordinance shall be passed by the affirmative vote of ~~two-thirds (2/3)~~ 2/3 of all the elected members of the City Council. If the ~~resolution~~ ordinance fails to receive the affirmative vote of ~~two-thirds (2/3)~~ 2/3 of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of ~~six (6)~~ 6 months from the date that the resolution failed to receive the required affirmative vote. The concurrent zoning application shall be considered for adoption by City Council in accordance with the provisions set forth hereafter and in this Charter and the Code of the City of Milford.

(6) ~~Prior to the resolution being considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed.~~ The public notice of the annexation ordinance shall contain a description of the territory proposed to be annexed, requested zoning and shall fix a time and place for a public hearing on the subject of the proposed annexation and zoning. The public notice of the annexation ordinance shall be published in a newspaper having a general circulation in the City of Milford at least 1 week prior to the date set for the public hearing, or, at the discretion of the City Council, the said notice shall be posted in 2 public places both in the City of Milford and in the territory proposed to be annexed and the City website.

(7) If the ~~resolution~~ ordinance receives a favorable vote for annexation, the City Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for ~~Kent or Sussex~~ ~~County~~ the county in which the property is located, but in no event, shall said recordation be

completed more than ~~ninety (90)~~ 90 days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ~~ninety (90)~~ 90 day period from the date of the favorable vote of the City Council.

(b) If ~~five (5)~~ 5 or more property owners, but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property.

~~(1) The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.~~

~~(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore.~~

~~(3) A Plan of Services for the property must be completed in accordance with Delaware Code. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation.~~

~~(4) The annexation/rezoning application shall also be referred to the Planning Commission for a Public Hearing and review and recommendation to City Council.~~

~~(5) Within sixty (60) days of the recommendation by the Planning Commission, a resolution shall then be considered by City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory to its then limits and territory. Said resolution shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. The resolution shall contain a description of the territory proposed to be annexed, requested zoning and shall fix a time and place for a public hearing on the subject of the proposed annexation and zoning. The resolution~~

~~shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.~~

~~(6) The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.~~

~~(7) Within sixty (60) days following the public hearing, and upon the acceptance of the Plan of Services by the State of Delaware, the City Council may pass a resolution annexing such territory to the City of Milford, subject to the approval of the property owners in the territory to be annexed. Said approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council.~~

(1) The procedure for consideration of a petition under Section 1.04(b) of this Charter shall be the same as the procedure under Section 1.04(1)(1 through 7), unless otherwise stated.

(2) The ordinance adopted under the procedures of Section 1.04 (a) (1 through 7) of this Charter applicable to petitions filed under Section 1.04(b) shall be subject to the approval of the property owners in the territory to be annexed. Said approval or disapproval shall be signified at a Special Election as set forth hereafter.

~~(8)~~ (3) In the event that ~~the resolution~~ the ordinance for annexation does not receive an affirmative vote by ~~two-thirds (2/3)~~ 2/3 of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of ~~six (6)~~ 6 months from the date the ~~resolution~~ ordinance failed to receive the required affirmative vote.

~~(9)~~ (4) Following the affirmative vote but in no event later than ~~thirty (30)~~ 30 days after said ~~resolution~~ ordinance has been ~~approved,~~ adopted, the City Council shall order a Special Election to be held not less than ~~thirty (30)~~ 30 nor more than ~~sixty (60)~~ 60 days after said affirmative ~~resolution has been passed on the proposed resolution.~~ ordinance was adopted by City Council.

~~(10)~~ (5) The notice of the time and place of the said Special Election shall be ~~printed~~ published within ~~thirty (30)~~ 30 days immediately preceding the date of this Special Election in at least ~~two (2)~~ 2 issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in ~~four (4)~~ 2 public places, ~~both~~ in the City of Milford, ~~and~~ in the territory proposed to be

~~annexed~~ annexed, and on the City website at least ~~fifteen (15)~~ 15 days prior to the date set forth for the said Special Election.

~~(11)~~ (6) At the Special Election, ~~every property owner, whether an individual, partnership or a corporation~~ each person who has an ownership interest in a property in the territory proposed to be annexed shall have ~~one (1)~~ 1 vote and every partnership, corporation, company, or other legally created artificial entity in the territory proposed to be annexed which has an ownership interest in a property in the territory proposed to be annexed shall have 1 vote. Property held by a partnership or by a corporation shall vote only by a power of ~~attorney~~ attorney, corporate resolution, or authorization affidavit duly executed. In the event that an individual holds a Power of Attorney or corporate resolution duly executed and acknowledged, specifically authorizing the said individual to vote ~~for the owner of a property held by~~ on behalf of a partnership or by a corporation at the said Special Election, before that person votes, a duly authenticated Power of ~~Attorney~~ Attorney or corporate resolution, shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney or corporate resolution so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. Property ~~owners~~ owners, individuals, or entities in the area proposed to be annexed shall have only ~~one~~ 1 vote regardless of the number of parcels owned.

~~(12)~~ (7) The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed ~~annexation~~ annexation.

[ ] Against the proposed ~~annexation~~ annexation.

~~(13)~~ (8) The Mayor of the City of Milford shall appoint ~~three (3)~~ 3 persons to act as a Board of Special Election. One ~~(1)~~ of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the ~~resolution~~ ordinance calling the Special Election. The polling place shall be open from ~~twelve noon, prevailing time, until eight o'clock in the evening, prevailing time,~~ 10:00 a.m. until 6:00 p.m. on the date set for the Special Election or until all those entitled to vote have done so. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

~~(14)~~ (9) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof. The Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council. Said Certificate shall be filed with the

papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation.

~~(15)~~ (10) In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least ~~one hundred eighty (180) days~~ 6 months from the date of the said Special Election.

~~(16)~~ (11) If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for ~~Kent or Sussex County,~~ the county in which the property is located, but in no event shall said recordation be completed more than ~~ninety (90)~~ 90 days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ~~ninety (90)~~ 90 day period from the date of the favorable Special Election.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to§1.04(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure. City Council may vote to require the Annexation Agreement at any time before adoption of the ordinance annexing the territory into the city.

The ~~resolutions~~ ordinances and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement. The ~~resolution~~ ordinances and ballots, if an election is required, annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference. An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the ~~resolution~~ ordinance adopted by City Council annexing the land

into the City of ~~Milford. or prior to the resolution ordering the special election pursuant to §1.04 of this Charter.~~ Milford. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation ~~resolution~~ ordinance.

(d) Property shall be designated to a contiguous ward(s) when annexed into the City pursuant to Article I.

1.05 - Deannexation.

(a) Except as provided for in Section 1.05(b), below, dexannexation shall follow procedures established in the Delaware Code.

(b) The City Council may authorize the deannexation of either of the following:

(1) Property with zero residents and assessed valuation of less than $25,000 by ordinance following a public hearing.

(2) A parcel which contains less square footage than the smallest parcel in the zoning district in which it is located.

ARTICLE II. - NOMINATIONS AND ELECTIONS

2.01 - City Elections.

(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of ~~12 noon and 8:00 p.~~m 10:00 a.m. to 6:00 p.m at such places as shall be determined by the City Council and in accordance with State law. Except that, in any year when the fourth Saturday in April falls between Good Friday and Easter Sunday, the annual municipal election shall be held on the third Saturday of April.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than ~~three~~ 3 nor more than ~~five~~ 5 electors of the City to be appointed by the City Council. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(c) A clerk from each respective Ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. City Council shall appoint an election ~~clerk(s)~~ clerk for each Ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least ~~thirty (30)~~ 30 days prior to the registration deadline or natural persons owning property within the City of Milford at least ~~thirty (30)~~ 30 days prior to the registration deadline, and who are over the age of ~~eighteen (18)~~ 18 years, shall be entitled to ~~one~~ 1 vote at said annual municipal election or special election; provided, however, that the City Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the

annual election. A Corporation, Partnership, Limited Partnership or other legally created entity is prohibited from registering and voting as a non-resident property owner unless property within the City is titled in an individual name.

(e) It is the responsibility of those registered voters who own property in more than ~~one~~ 1 Ward to declare at least ~~sixty (60)~~ 60 days prior to the election which Ward they will vote in on the day of the election. In the event that a person owns ~~property(s)~~ property in the City in addition to their place of residency, he or she may vote once only where he or she resides.

(f) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. The person having the highest number of votes, for each office, shall be declared duly elected in accordance with State law, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(g) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of time as required by State law.

(h) Any vacancy in the Election Board shall be filled by ~~the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.~~ City Council at a Special Meeting prior to the election.

(i) In the event of a tie vote for any office, a Special Election for said ~~office(s)~~ office only shall be held within ~~thirty (30)~~ 30 days and the registration books shall remain closed until the outcome of the Special Election is determined.

(j) Not less than ~~sixty (60)~~ 60 days prior to the Annual Election, all candidates for the office of City ~~Councilperson~~ Councilmember shall file with the City ~~Manager~~ Clerk a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ~~ten (10)~~ 10 registered voters in the Ward in the City of Milford in which the candidate resides. Nominations for the Office of Mayor shall be filed with the City Manager not less than ~~sixty (60)~~ 60 days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ~~ten (10)~~ 10 registered voters in the City of Milford.

2.02 - Emergency election postponement; declaration.

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any

other catastrophic event. Once the declaration is issued, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than ~~fourteen~~ 14 calendar days after the original date of the election.

2.03 - Absentee Ballot Procedures.

Absentee voting in the City of Milford is in accordance with State law.

2.04 - Voting Machines for Local Office and Mayor and City Council Ballots.

(a) Voting machines for Mayor and City Council Elections. The City of Milford shall conduct all elections for local office using voting machines that the Department of Election of the State of Delaware provides.

(b) Names on Ballots. The Department of Elections shall prepare the voting machines for the election of members of a Municipal Government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

2.05 - Ballots for ~~Ordinances and Charter Amendments.~~ Ordinances.

An ordinance ~~or Charter amendment to be voted on by the City~~ requiring a vote by eligible voters shall be presented ~~for voting~~ by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

2.06 - Voting Machines for Referenda and Annexation Elections.

The City Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

2.07 - Council Districts; Adjustment of Districts.

(a) Number of Districts. There shall ~~initially be four (4)~~ be 4 City Council districts to be known as Wards.

(b) ~~Districting Commission. The City Council shall comprise the districting commission.~~

~~(c)~~ Report; Specifications. By the first day of January of the second year following the decennial census, ~~the districting commission~~ a Ward Districting Committee appointed by the Mayor pursuant to Section 3.07 of this Charter shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, ~~as nearly rectangular as possible,~~ and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters and Districts shall not differ in population by more than ~~ten (10) percent~~ 10% of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

~~(d)~~ (c) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that the summary, including both the map and descriptions of the recommended districts, must be published in ~~two~~ 2 newspapers of general circulation in the City of Milford and on the City website, no less than ~~one~~ 1 month prior to its adoption.

~~(e) The Commission may, but is not required to, establish five Wards instead of four, with two Councilpersons to be elected from each Ward.~~

~~(f)~~ (d) Enact Ordinance. The Council shall adopt the ordinance at least ~~six~~ 6 months before the next regular City election.

~~(g)~~ (e) Effect of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all ~~Councilpersons~~ Councilmembers elected at the regular City election take office.

ARTICLE III. - POWERS OF THE CITY - COUNCIL AND MAYOR

3.01 - Enumerated Powers.

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

(a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation or by purchase for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, ~~gas, or~~ gas, sewerage, public utility of any nature, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the ~~Revised Code of Delaware 1953, as amended~~ Delaware Code and shall have the power to dispose of real property by Ordinance. The City of Milford may ~~transmit electric, gas and/or water from the plant or plants owned and operated by said City~~ own and operate public utilities and public services to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The City Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City ~~and/or~~ and the purchase of supplies and doing of work for any municipal purpose for the City. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof.

(2) A contract for professional services.

(3) A contract which is less than ~~Thirty ($30,000)~~ $50,000. Such a contract shall not be for a portion of a project or proposal that would otherwise require bidding. The aggregate amount shall not exceed ~~Thirty ($30,000)~~ $50,000.

(c) The contract shall be awarded to the lowest responsible bidder, but City Council may reject any ~~and/or~~ or all bids for any cause by it deemed advantageous to the City.

(d) All ~~formal~~ contracts approved by the City Council shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk. The City Manager is authorized to execute all other contracts and agreements for the City of Milford.

(e) The City Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford in accordance with the provision of Article VIII of this Charter.

(f) The City Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time resolve or decree.

(g) Notwithstanding any of the provisions of Section 3.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article IX of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

(h) The City Council shall have the authority to enter into public private partnerships.

(i) The City Council may provide for the organization of a fire department and the control and government thereof, establish fire limits and do all things necessary for the prevention or extinguishment of fires; and, in their discretion,

contribute, donate or give such amounts of money as they may deem appropriate unto any Volunteer Fire Company or Companies incorporated under the laws of Delaware, or any firefighting equipment and providing service to the City; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the City Council shall deem advisable.

3.02 - Construction.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

3.03 - Intergovernmental Relations.

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America ~~of~~ or any agency thereof.

3.04 - Notice of Action.

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor, or the City Council of the City of Milford for damages on account of physical injuries, death, or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents, or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within 1 year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause, and character of the injuries sustained.

~~3.04~~ 3.05 - Investigations.

The City Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the ~~council~~ City Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~$500.00,~~ $500, or by imprisonment for not more than ~~ten (10)~~ 10 days, or both.

~~3.05~~ 3.06 - Independent Audit.

The City Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The City Council shall, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding ~~three years, provided that the designation for any particular fiscal year shall be made no later than 30~~

~~days after the beginning of such fiscal year.~~ 3 years. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. City Council must review and accept each annual audit.

~~3.06~~ 3.07 - Mayor - General Powers.

The Mayor shall be the executive of the City and shall preside at meetings of the City Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by City Council necessary to be executed subject to Section 3.01(d) herein. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by City Council; and shall have all and every power conferred and perform the duties imposed upon ~~him~~ him/her by this Charter and the ordinances of the City. The Mayor may ~~appoint such committees~~ establish such committees, appoint committee members, and designate the committee Chairs as he or she deems necessary for the proper administration of City Council.

~~3.07~~ 3.08 - Vice Mayor.

At the annual organizational meeting, the Council shall also elect by a majority vote of the entire City Council a Vice-Mayor who shall act as Mayor during the temporary absence or inability of the Mayor, and while so acting, shall be vested with all the powers and authority of the Mayor. ~~The Vice Mayor shall qualify as a Councilperson while acting as Mayor for the purpose of establishing a quorum.~~ The Vice Mayor shall qualify as a City Councilmember while acting as Mayor for the purpose of establishing a quorum and shall be able to vote as a City Councilmember.

~~3.08~~ 3.09 - General Powers and Duties.

All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

ARTICLE IV. – CITY COUNCIL GOVERNMENT - COMPOSITION, QUALIFICATIONS, VACANCIES AND PROCEDURE

4.01 - Composition of Government.

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the City Council, consisting of a Mayor and ~~eight (8)~~ 8 ~~Councilpersons~~ Councilmembers. Whenever the word "Mayor" is used, it shall refer solely to the Mayor. Whenever the ~~word "Council" is used it~~ words "City Council" are used they shall refer to the ~~eight (8) Councilpersons~~ 8 duly-elected or appointed Councilmembers. The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ~~ten (10)~~ 8 members. Two of the members of the City Council shall reside in that portion of the City known and described as

the First Ward, ~~two~~ 2 in that portion known as the Second Ward, ~~two (2)~~ 2 in that portion known as the Third Ward and ~~two~~ 2 in that portion known as the Fourth Ward. ~~In the event a Fifth Ward is created, two members of City Council shall reside in that portion of the City known and described as the Fifth Ward~~. The Mayor and ~~Councilpersons~~ City Councilmembers shall each serve for a term of ~~two~~ 2 years.

4.02 - Annual Organizational Meeting.

At ~~seven o'clock (7:00)~~ 7:00 p.m. on the second Monday following the annual election, the Mayor and City Council shall meet at the City Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City.

4.03 - Compensation and Expenses.

The City Council may determine the annual salary of ~~Councilpersons~~ Councilmembers and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of ~~Councilpersons~~ Councilmembers elected at the next regular election, provided that such election follows the adoption of such ordinance by at least ~~six~~ 6 months. ~~Councilpersons~~ Councilmembers and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of ~~office.~~ office, in accordance with a policy established by City Council by Resolution.

4.04 - Prohibitions.

~~(a) Except where authorized by law, no Mayor or Councilmembers Councilperson shall hold any other City office or employment during the term for which he or she was elected to the Office of Mayor or City Council, and no former Mayor or Councilmembers Councilperson shall hold any compensated appointive City office or employment until two (2) years or more after the expiration of the term of office for which he or she was elected.~~

(a) No person who has served as a City employee, officer or elected official shall represent or otherwise assist any private enterprise on any matter involving the City, for a period of 2 years after termination of employment, appointed status or end of elected term, if the person had rendered an opinion, conducted an investigation, was in a position to directly or indirectly be materially responsible of such matter, or was eligible to vote on such matter in the course of his or her official duties as a City employee, officer or elected official. Nor shall such former City employee, officer or elected official disclose confidential information gained by reason of public position nor shall the person otherwise use such information for personal gain or benefit.

(b) Appointments and removals. Neither the ~~Mayor or Council~~ Mayor, City Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Police Chief or City Manager or any of his or her subordinates are empowered to appoint, but the Mayor or City Council may express its

views and fully and freely discuss with the City Manager or Police Chief anything pertaining to appointment and removal of such officers and employees.

(c) Interference with Administration. Except for the purposes of inquiries and investigations under Section 4.08, the Mayor or City Council or its members shall deal with City ~~officers and employees~~ officers, employees, or independent contractors who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor or City Council nor its members shall give orders to any such ~~officer or employee~~ officer, employee, or independent contractor, either publicly or privately. Likewise, the Mayor or City Council or its members shall deal with Police officers, employees or independent contractors who are subject to the direction and supervision of the Police Chief solely through the Police Chief, and neither the Mayor or City Council nor its members shall give orders to any such officer, employee or independent contractor, either publicly or privately.

4.05 - Vacancies, Forfeiture of Office; Filling of Vacancies.

(a) Vacancies.

(1) The Office of the Mayor shall become vacant upon death, ~~resignation~~ resignation, forfeiture, or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the City and the vacancy is confirmed by City Council.

(2) The Office of a ~~Councilperson~~ Councilmember shall become vacant upon death, ~~resignation~~ resignation, forfeiture, or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the Ward in which he/she resided at the time of the election and the vacancy is confirmed by City Council.

(b) Forfeiture of Office. ~~A Councilperson~~ The Mayor or a Councilmember shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, or (3) is convicted of a crime involving moral turpitude.

(c) Filling of Vacancies. If a vacancy occurs in the City Council and the remainder of the unexpired term is ~~less~~ more than ~~three (3)~~ 12 months, the vacancy shall be filled ~~in the next general~~ by a special election. If a vacancy occurs in the City Council and the remainder of the unexpired term is less than ~~six (6) months but more than three (3) months,~~ 12 months, the City Council ~~may~~ shall within 45 days of the vacancy ~~occurring,~~ being confirmed, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. ~~If at the time a vacancy occurs the remainder of the unexpired term is six (6) months or greater than six (6) months, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term.~~ The special election shall be held ~~not sooner than twenty (20) days nor later than thirty (30) days~~ in accordance with State

election laws following the occurrence of the ~~vacancy and shall be otherwise governed by the provisions of Article VII~~. vacancy. Notwithstanding the requirement that a quorum of the City Council consists of ~~five~~ 5 members, if at any time the membership of the City Council is reduced to less than ~~five,~~ 5, the remaining members may, by majority action, appoint additional members to raise the membership to ~~five.~~ 5.

4.06 - Qualification for Mayor and City Council.

(a) No person shall be eligible for election as Mayor unless he or she is a citizen of the United States of America, a bona fide resident of the City of Milford and has continuously resided therein for a period of ~~two (2)~~ 2 years preceding the day of the election, is over the age of ~~eighteen (18)~~ 18 years prior to the day of the election, has not been convicted of a felony, submits a criminal background check of the person's entire criminal history record from the State Bureau of Identification, and is nominated therefore, as hereinafter provided.

(b) No person shall be eligible for election as a City Council member unless he or she is a citizen of the United States of America, a bona fide resident of the Ward in the City of Milford where they are seeking election and has continuously resided therein for a period of one year preceding the day of the election, is over the age of ~~eighteen (18)~~ 18 years prior to the day of the election, has not been convicted of a felony, submits a criminal background check of the person's entire criminal history record from the State Bureau of Identification, and is nominated therefore, as hereinafter provided.

(c) The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be a resident of the City during his or her respective ~~term(s)~~ term of office nor shall any member of City Council be eligible to serve in such elected office unless they continue to be a resident of their Ward during their respective terms of office.

(d) If a Council member files and runs for Mayor, and is elected before his or her Council term has expired, the elected Mayor's City Council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.

4.07 - Judge of Qualifications.

The City Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least ~~one~~ 1 week in advance of the hearing. Decisions made by the City Council under this Section shall be subject to review by the Superior Court.

4.08 - Procedure.

(a) Meetings. The City Council shall meet regularly at least once in every month at such times and places as the City Council may prescribe by rule. Special meetings may be held in compliance with State law and may be on the call of the Mayor or of ~~four~~ 4 or more members. All meetings shall be public; however, the City Council may recess for the purpose of discussing in a closed or executive session ~~limited to its own membership any matters~~ as permitted by State Law.

(b) Rules and Journal. The City Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the City Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) Voting. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal or by voice vote at the option of the Mayor unless otherwise required by State law. Five members of the City Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the City Council. No action of the City Council, except as otherwise provided in the preceding sentence and in Section 4.05(c), shall be valid or binding unless adopted by the affirmative vote of ~~four~~ 4 or more members of the City Council.

4.09 - Action Requiring an Ordinance.

The City Council is hereby vested with the authority to enact ordinances or resolutions ~~(resolution includes actions taken upon motion whether by roll call or voice vote and whether or not the Resolution has been pre\pared as a writing)~~ relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated. For purposes of this paragraph, resolutions shall include actions by City Council taken in accordance with this Charter.

In addition to other acts required by State law or by specific provision of this Charter to be done by ordinance, those acts of the City Council which shall be by ordinance are as follows:

(a) Adopt or amend an administrative code or establish, alter or abolish any City department, office or ~~agency;~~ agency.

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

(c) Levy taxes, except as otherwise provided in Article X with respect to the property tax levied by adoption of the ~~budget;~~ budget.

(d) Grant, renew or extend a ~~franchise;~~franchise.

(e) Regulate the rate charged for its services ~~by a municipal utility;~~ or as a public utility.

(f) Authorize the borrowing of ~~money;~~money.

(g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate ~~limits.~~ limits.

(h) Amend or repeal any ordinance previously ~~adopted; and~~ adopted.

(i) Change of zone or conditional use of land.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.10 - Ordinances in General.

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ~~ordains . . ."~~ ordains". Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) Procedure. An ordinance may be introduced by the Mayor, any member of City Council or the City Manager at any regular or special meeting of the City Council in accordance with City Council Rules established by Resolution. Upon introduction of any ordinance, the City Clerk shall distribute a copy to the Mayor, each Councilmember and to the City Manager. An ordinance shall be placed on the agenda for introduction and for adoption by title; the introduction and the adoption may not be on the same meeting date. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) Effective Date. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ~~ten (10)~~ 10 days after ~~adoption or~~ adoption, at any later date specified therein, or as provided by State law.

(d) "Publish" Defined. As used in this section, the term "publish" means to ~~print~~ publish in ~~one~~ 1 or more newspapers of general circulation in the City and on the City website:

(1) A brief summary of the Ordinance, and

(2) The places where complete copies of it have been filed and the times when they are available for public inspection.

4.11 - Emergency Ordinances.

To meet a public emergency affecting life, health, property property, public safety, or the public peace, the City Council may adopt ~~one~~ 1 or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 6.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least ~~five~~ 5 members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except one made pursuant to Subsection 6.09(b), shall automatically stand repealed as of the ~~61st~~ sixty-first day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.12 - Codes of Technical Regulation.

(a) The City Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(b) The requirements of Section 4.10 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the City Clerk pursuant to Subsection 4.13(a).

(d) Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.13 - Authentication and Recording, Codification Printing.

(a) Authentication and Recording. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) Codification. The City Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the City Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments

thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the City Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public ~~reference~~ reference, provided online accessible through the City website, and made available for purchase by the public at a reasonable price fixed by the City Council.

(c) Printing of Ordinances and Resolutions. The City Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the City Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The City Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.

4.13 - Code of Ethics

The Mayor and City Council shall develop, adopt, and adhere to a Code of Ethics applying to elected officials and to City employees in general.

ARTICLE V. - ADMINISTRATION AND APPOINTEES

5.01 - Form of Government.

The form of government established by this charter shall be known as the "City Council-Manager" form.

5.02 - City Manager - Appointment; Qualifications and Compensation.

The City Council shall appoint a City Manager for an indefinite term. He or she need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the City Council. The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.

5.03 - City Manager - Removal.

The City Council shall remove the City Manager from office in accordance with the following procedures and those conditions contained in the City Manager's employment contract:

(a) The City Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the City Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the City Manager.

(b) Within ~~five~~ 5 days after a copy of the resolution is delivered to the City Manager, he or she may file with the City Council a written request for a public hearing or Executive Session at the choice of the City Manager. This hearing shall be held at a City Council meeting not earlier than ~~fifteen (15)~~ 15 days nor later than ~~thirty (30)~~ 30 days after the request is filed. The City Manager may file with the City Council a written reply not later than ~~five (5)~~ 5 days before the hearing.

(c) The City Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after ~~five (5)~~ 5 days from the date when a copy of the preliminary resolution was delivered to the City Manager, if he or she has not requested a public hearing or Executive Session, or at any time after the public hearing or Executive Session, if he or she has requested one. The City Manager shall continue to receive his or her salary until the effective date of a final resolution of removal.

5.04 - Acting City Manager.

By ~~letter~~ notice filed with the City Clerk, the City Manager shall designate, subject to the approval of the City Council, a qualified City administrative officer to exercise the powers and perform the duties of City Manager during his or her temporary absence or disability. During such absence or disability, the City Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager shall return or his or her disability shall cease.

5.05 - Powers and Duties of the City Manager.

The City Manager shall be the chief administrative officer of the City. He or she shall be responsible to the City Council for the administration of all City affairs placed in his or her charge or under this Charter. He or she shall have the following powers and duties:

(a) He or she shall appoint, and when he or she deems it necessary for the good of the ~~service~~ City, suspend or remove City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He or she may authorize any administrative officer, who is subject to his or her direction and supervision, to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He or she shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) He or she shall attend all City Council meetings and shall have the right to take part in discussion but may not vote.

(d) He or she shall see that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by him or her or by officers, subject to his or her direction and supervision, are faithfully executed.

(e) He or she shall prepare and submit the annual budget and capital program to the City Council.

(f) He or she shall submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(g) He or she shall make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to his or her direction and supervision.

(h) He or she shall keep the City Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he or she deems desirable.

(i) He or she shall perform such other duties as are specified in this Charter or may be required by the City Council.

5.06 - City Clerk - Appointment and Duties.

The City Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of City Council meetings to its members and the public, maintain a permanent record of all City Council proceedings and documents, manage the City's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature and perform other duties as are assigned to him or her by this Charter or by the City Council.

5.07 - City Solicitor.

At the Annual organization meeting, the City Council shall appoint a City Solicitor who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the City Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor ~~may~~ must be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

5.08 - Police Department.

The City Council shall appoint a Chief of Police for an indefinite term and fix his or her compensation. The terms of his or her employment shall be contained in an employment contract.

(a) It shall be the duty of the City Council to appoint a Chief of the ~~City~~ Milford Police Department. ~~and such number of subordinates as the Council may deem wise.~~ The City Council shall, from time to time, make rules and

regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police ~~Force~~ Department. The police shall preserve peace and order, and shall ~~compel obedience~~ enforce within the City limits the ordinances of the City and the laws of the State; and they shall have such other duties as the City Council shall from time to time prescribe. ~~After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of Police.~~

(b) Each ~~member of the Police Force~~ police officer shall be vested, within the City limits and ~~within one mile outside of said limits,~~ as permitted by State law, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to City Council and shall be removed from office in accordance with the provisions of State law. ~~law and the following procedures:~~

~~(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.~~

~~(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.~~

~~(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.~~

~~(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.~~

~~(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.~~

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare ~~and submit~~ an annual budget and capital program in conjunction with the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for City Council approval.

(3) Attend all City Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

5.09 - City Holding Cells.

The City Council may maintain a holding cell for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to transport to a detention facility, hearing and trial or arraignment.

~~5.10 - City Alderman.~~

~~(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.~~

~~(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He or she shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he or she may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.~~

~~(c) He or she shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.~~

~~(d) He or she shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.~~

~~(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.~~

~~(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He~~

~~shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.~~

~~(g) The Alderman shall keep a docket in which all his official acts shall be entered.~~

~~(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.~~

~~5.11 - Finance Department~~

~~There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either Mayor or City Council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the Council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the City Manager and Council shall direct and which will keep the Council, City Manager and the public informed of the financial condition of the city.~~

~~5.11~~ 5.10- Finance Department.

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by ~~two~~ 2 members of either Mayor or City Council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule ~~approved by the Council,~~ consistent with State law, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the City Manager and City Council shall direct and which will keep the City Council, City Manager and the public informed of the financial condition of the City.

~~5.12~~ 5.-11 - Planning Department.

There shall be a planning department, which shall be directed and supervised by a ~~City Planner~~ Planning Director. The ~~City Planner~~ Planning Director shall be appointed, supervised and removed by the City Manager. The ~~City Planner~~ Planning Director shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the ~~city;~~ city.

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification ~~thereof;~~ thereof.

(c) To review and make recommendations regarding proposed actions of the City Council in implementing the comprehensive development ~~plan;~~ plan.

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities and in connection therewith, to provide it necessary staff ~~assistance;~~ assistance.

(e) To review and make recommendations regarding proposed actions of the City Council in ~~annexations;~~ annexations.

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of ~~plans;~~ plans.

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built ~~environment;~~ environment.

(h) Direction over the administration, management and enforcement of the City's building and nuisance codes.

(i) Such other duties as may be assigned.

~~5.13~~ 5.12 - City Planning Commission

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford. The City Planning Commission shall consist of ~~nine (9) members~~ no less than 5 and no more than 9 members recommended by the Mayor and appointed by City Council.

~~5.14~~ 5.13- Board of Adjustment.

There shall be a Board of Adjustment pursuant to the provisions of the Delaware Code. The City Council shall, by ordinance, establish a Board of Adjustment and shall provide for the adoption of standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the City Council or by law.

ARTICLE VI. - FINANCIAL PROCEDURES

6.01 - Fiscal Year.

The Fiscal year of the City shall be set by the City Council.

6.02 - Submission of Budget Date.

On or before the last day of the twelfth month of each fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message.

6.03 - Budget Message.

The City Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the ~~manager~~ City Manager deems desirable.

6.04 - Operating Budget.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the City Council may require. In organizing the budget, the City Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such ~~expenditures;~~ expenditures.

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital ~~expenditure;~~ expenditure.

(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

6.05 - Capital Program.

(a) Submission to City Council. The City Manager shall prepare and submit to the City Council a ~~five-year~~ 5 year capital program at the time the annual budget is submitted to City Council as defined in Section 6.02.

(b) Contents. The capital program shall include all of the following:

(1) A clear, general summary of its ~~contents;~~ contents.

(2) A list of all capital improvements which are proposed to be undertaken during the ~~five~~ 5 fiscal years next ensuing, with appropriate supporting information as to the necessity for such ~~improvements;~~ improvements.

(3) Cost estimates, method of financing and recommended time schedules for each such ~~improvement;~~ ~~and~~ improvement.

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

6.06 – City Council Action on Operating Budget.

The City Council shall adopt the operating budget on or before the last day of the ~~twelfth~~ 12th month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the City Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

6.07 – City Council Action on Capital Program.

~~Adoption.~~ The City Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

6.08 - Public Records.

Copies of the budget and the capital program as adopted for the fiscal year are public records and shall be made available to the public through the Freedom of Information Act and the City of Milford website.

6.09 - Amendments after Adoption.

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are ~~available for appropriation~~ revenues in excess of those estimated in the budget and that they may be available for appropriation, the City Council by ordinance may make ~~by~~ supplemental appropriations for the year up to the amount of such ~~excess.~~ additional revenue.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the City Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the

extent that there are no available un-appropriated revenues to meet such appropriations, the City Council may exercise short term borrowing authority as provided in Section 8.07 of this Charter.

(c) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer of Appropriations. At any time during the fiscal year, the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the City Manager, the City Council may by majority vote transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

6.10 - Lapse of Appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if ~~three~~ 3 years pass without any disbursement from or encumbrance of the appropriation.

6.11 - Administration of Budget.

(a) Work Programs and Allotments. At such time as the City Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The City Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He or she may revise such allotments during the year if they deem it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

(b) Payments and Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the City Manager or his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds ~~there from~~ therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any

authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he or she shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

ARTICLE VII. - TAXATION, ASSESSORS AND ASSESSMENT OF TAXES

7.01 - General Assessment of Real Property.

~~Not less frequently than every ten (10)~~ Every 10 years, there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

7.02 ~~–~~Supplemental Assessments.

It shall be the duty of the City Manager to include supplemental assessments prepared by ~~the assessor(s)~~ a certified assessor for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment. In the year that a ~~supplement~~ supplemental assessment is made, the General Assessment then in force as modified by the supplemental assessment, shall constitute the assessment for the year.

7.03 - Assessment Copies to City Council.

The City Manager shall make and deliver to the City Council, as soon as the assessments are made, such number of copies as the City Council shall direct.

~~7.04 The real property of the City Assessor(s) shall be assessed by the Council.~~

~~7.05~~ 7.04 - Notification of Assessment.

The ~~Tax Assessor~~ City Manager or designee shall notify the property owner in writing of any change in assessment.

~~7.06~~ 7.05 - Public Notice.

The City Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as adjusted by the supplemental assessment as made in said year, to be ~~hung~~ posted in ~~two~~ 2 public places in the ~~City, and there to remain for the space ten (10) days for public information.~~ City for a period of 10 days. Attached to said copies shall be a notice of the day, hour and place that the City Council will sit as a Board of Revision and Appeal; and the notice of the ~~hanging up~~ posting of the copies of the assessment and the places where the same are ~~hung up~~ posted and

of the day, hour and place when the City Council will sit as a Board of Revision and Appeal shall be published on the City website and in at least ~~one~~ 1 issue of a newspaper circulated in the City at least 10 days before the meeting.

~~7.07~~. 7.06 - Corrections and Revisions of Assessments.

At the time and place designated in the notice aforesaid, the City Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the City Council shall be final and conclusive; and no member of City Council shall sit on his or her own appeal.

~~7.08~~. 7.07 - Revised Assessment.

The assessment, as revised and adjusted by the City Council, shall be the basis for the levy and collection of the taxes for the City. If any ~~taxable~~ property owner fails or neglects to perfect his or her appeal to the Board of Revision and Appeal, he or she shall be liable for the tax for such year as shown by the assessment lists.

~~7.09~~. 7.08 - Taxes on Utility Infrastructure.

The City Council shall also have the right to levy and collect taxes on ~~all underground cables installations, and upon all telephone, telegraph or power poles or other erections of like character erected or~~ any utility infrastructure installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such ~~poles, erections, installations or appliances~~ utility infrastructure shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the City Council shall have the authority to cause the same to be removed.

~~7.10~~ 7.09 - Determination of Rate of Taxation.

The City Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

~~7.11~~ 7.10 - Limit of Taxation.

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding ~~two percent~~ 2% of the assessed value of real property with improvements located in the City.

~~7.12~~ 7.11 - Taxes - Delinquencies.

(a) Not later than the second month of a new fiscal year, the City Manager shall make available to the City Council a list containing the names of the ~~taxables of~~ owners of taxable properties within the City and, opposite the name of each, the amount of ~~his~~ the real property assessment, as well as the tax upon the whole of ~~his~~ the assessment, and the rate

per ~~hundred dollars~~ $100 of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the City Clerk commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in those banking institutions approved by City Council.

(c) All taxes shall be due and payable on the date set by City Council. To every tax not paid after the said date each year there shall be added ~~and collected~~ a penalty, ~~for each month that the said tax remains unpaid.~~ at a rate charged to be set by City Council through ordinance. ~~The penalty rate charged is to be set by Council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.~~

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real ~~estate~~ estate of the delinquent taxpayer situated within the limits of the City of ~~Milford.~~ Milford for a period of 10 years from July 1 of the year for which the taxes were levied, but if the real estate remains the property of the person who was the owner at the time that it was assessed, then the lien shall continue until the tax is collected. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. The City Manager, in the name of the City of Milford, may institute suit before any ~~Justice of the Peace within Kent County or Sussex County, or before the Alderman of the said City, or in the Court of Common Pleas in and for Kent or Sussex County, or in the Superior Court of the~~ court of competent jurisdiction in the State of Delaware, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in cases of other judgments recovered ~~before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.~~ within those courts.

(e) In addition, the City Manager, acting on behalf of the City, may pursue the sale of the lands and tenements of the delinquent taxpayer, or the lands or tenements of a delinquent taxpayer alienated subsequent to the levy of the tax ~~and with the following conditions~~ by monition sale according to the same procedures and subject to the same rights, authority and powers as are applicable to the Counties under Chapter 87 of Title 9 of the Delaware Code, as may later be amended, replaced or relocated within the Delaware Code. Prior to commencing any action for the sale of lands and tenements, the City shall send written notice to the assessed owner providing the total balance owed and language indicating a failure to pay within 30 days may result in the commencement of legal proceedings for the sale of the assessed property.

~~(1) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on~~

payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(2) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(3) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition

For filing and recording return of sale

To the City Manager for preparing certificate

For making sale of land

For preparing and filing return

For posting sale bills

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

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

(f) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(f) In addition to collection of fees and costs set forth in the Delaware Code, the City shall have the authority to enact such ordinance as necessary to assure recovery of all expenses incurred by the City in collecting said judgment.

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

(g) In the event of the death, resignation or removal from office of the City Manager before the proceedings of the sale of land shall have been completed, his or her successor in office shall succeed to have all of his or her powers, rights and duties in respect to said sale.

~~(h) The provisions of this~~ Section 7.12~~, other than the provisions of subsection (b) of this~~ Section 7.12~~, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article IX of this Charter, provided that all references in this~~ Section 7.12 ~~to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district.~~

(h) There is hereby created a tax lien on any assessment or service charge levied by the City of Milford against a property as it relates to any utility service provided by the City of Milford, including any installation fees, connection fees, and service charges for maintenance or use thereof, and any amount expended by the City in order to complete any improvement, installation, razing, demolition, removal, or repair that is mandated by the City and where the assessed owner refuses or fails to comply, and any other fine, cost or assessment duly levied and authorized by this Charter, by ordinance or by State law. All such assessments and charges shall be collected in the same manner as real estate property taxes and subject to the same lien provisions provided under subsection (d) of this Section 7.11.

(i) The provisions of this Section 7.11 shall apply to any charge levied by the City that would qualify as a lien under 25 Del.C. §2901(a)(1), as may be amended, and all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article IX of this Charter, provided that all references in this Section 7.11 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district.

(j) In addition to any method of collection provided under this Section 7.11, the City Manager or representative appointed by the City Manager may pursue collection of any delinquent assessment or charge as may now or later be available under Delaware law.

~~7.13~~ 7.12 - Real Estate Transfer Tax

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance ~~to~~ with Delaware laws.

~~7.14~~ 7.13- Assessment, Payment, and Collection of Taxes for New Construction

In the event that the Mayor and City Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

ARTICLE VIII. - BORROWING OF MONEY AND ISSUANCE OF BONDS

8.01 - Bonds.

The City of Milford may borrow ~~money~~ money, and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

8.02 - Purpose of Bonds.

This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(a) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained ~~therein;~~ therein.

(b) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the ~~City;~~ City.

(c) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of ~~gas, water, electricity, sewerage or drainage system, or any of them,~~ any public utility and the condemning or purchasing of any lands, easements and rights-of-way which may be required ~~therefore;~~ therefore.

(d) Constructing, paving, ~~laying out,~~ engineering, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, ~~laying out,~~, engineering, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing ~~or~~ of any lands, easements or rights-of-way which may be required ~~therefore;~~ therefore.

(e) Any other purpose consistent with the promotion of health, ~~education~~ education, public safety, or the general welfare of the City of Milford.

8.03 --Bonds or Certificates of Indebtedness - Resolutions.

The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(a) The amount of money, or the amount of money not exceeding which, it is proposed shall be ~~borrowed;~~ borrowed.

(b) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be ~~paid;~~ paid.

(c) The manner in which it is proposed to be ~~secured;~~ secured.

(d) The manner in which it is proposed that it shall be paid or funded, or ~~both;~~ both.

(e) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes ~~aforesaid; and~~ aforesaid.

(f) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

8.04 --Notice of Resolution.

(a) It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least ~~one~~ 1 issue of a newspaper published in the City of Milford at least ~~one~~ 1week before the time fixed for said ~~hearing, and~~ hearing, by posting ~~copies thereof in five~~ on the City of Milford website and in 2 public places ~~throughout~~ in the ~~said~~ City at least ~~one~~ 1 week before the time fixed for said hearing.

(b) At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing

that a Special Election be held in the City of Milford not less than ~~thirty (30)~~ 30 days nor more than ~~sixty (60)~~ 60 days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

(c) The purpose of such Special Election shall be to vote for or against the proposed loan.

(d) The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in ~~five~~ 2 public places in said City at least ~~two~~ 2 weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those ~~two~~ 2 weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of ~~Milford.~~ Milford in addition to the city website. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

(e) The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City.

(f) At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to 1vote. ~~At least five days prior to the date of the Special Election, the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "For the Proposed Borrowing" and upon the other half of said ballot shall be printed the words, "Against the Proposed Borrowing", and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.~~

~~The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he or she, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.~~

(g) The ballot, either by voting machines or paper ballots, shall include a statement of the purpose for which the borrowing is being proposed and the maximum amount of the bonds to be issued. The vote will be in the following form:

[ ] For the Proposed Borrowing.

[ ] Against the Proposed Borrowing.

(h) Absentee ballots shall be made available by the City Clerk within 5 days of the date of the adoption of the Resolution ordering the Special Election and distributed no later than 4:30 p.m. 2 days prior to the date of the Special Election. Completed absentee ballots received after that time shall not be counted.

The City Clerk shall ensure delivery of the absentee ballots to the Election Board before the polls are opened on the Special Election Day.

(i) Immediately upon the closing of the polls, the total votes cast by absentee ballot and the total votes cast for and against the borrowing on the Special Election Day shall be counted by the Special Election Board and the results announced. Two Certificates of Special Election shall be prepared and signed by at least 3 Special Election Board Members. One copy of the Certificate shall be entered into the minutes of the next meeting of City Council.

(j) All election documents, including ballots and the Certificate of Special Election, are public records and available for inspection by the public in accordance with the Delaware Freedom of Information Act [Chapter 100 of Title 29]. Said documents will be maintained in accordance with the retention and disposal schedules approved by Delaware Public Archives.

8.05 - Payment of Bonds or Certificates of Indebtedness.

(a) The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

(b) The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

(c) The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case or as recommended by ~~bound~~ bond counsel, it shall also provide a sinking fund therefore.

(d) Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the full faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefore.

8.06 - Refinancing of Municipal Bonds.

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The ~~principle~~ principal amount of the refinancing obligations may exceed the outstanding ~~principle~~ principal amount of the obligations to be refinanced.

8.07 - Short Term Borrowing.

Notwithstanding the foregoing provisions of this Section, the City Council may authorize, by resolution, short term borrowing by the City without the necessity of a Special Election. The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for ~~one~~ 1 of the following: operating deficits, emergencies declared by City Council, and short term capital project funding. The money shall be paid back in no longer than ~~five (5)~~ 5 years.

ARTICLE IX. - TAX INCREMENT FINANCING AND SPECIAL DEVELOPMENT DISTRICTS

9.01 - Tax Increment Financing and Special Development Districts.

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with Delaware Code relating to the Municipal Tax Increment Financing Act and Delaware Code relating to Special Development Districts.

9.02 - Non-Recourse

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property.

ARTICLE X. - SEVERANCE

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

ARTICLE XI. - TRANSITIONAL PROVISIONS

11.01 - Officers and Employees

(a) Rights and Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance of Officers and Employees. Except as specifically provided by this Charter, ~~if at the time this Charter takes full effect,~~ or any amendment thereto, if a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, or any amendment thereto, he or she shall continue in such office or position until the taking effect of some specific provision under this Charter, or any amendment thereto, directing that he or she vacates the office or position.

11.02 - Departments, Offices and Agencies

(a) Transfer of Powers. If a City department, office or agency is abolished by this Charter, or any amendment thereto, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter, or any amendment thereto, or, if the Charter, or any amendment thereto, makes no provision, as designated by the City Council.

(b) Property and Records. All property, records and equipment of any department, office or agency existing when this ~~Charter~~ Charter, or any amendment thereto, is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the City Council in accordance with this this ~~Charter.~~ Charter, or any amendment thereto.

11.03 - Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter, or any amendment thereto, and in each case, shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter, or any amendment thereto.

11.04 - State and Municipal Laws.

In ~~General,~~ general, all City ordinances, resolutions, orders and regulations which are in force when this Charter, or any amendment thereto, becomes fully effective are repealed to the extent that they are inconsistent or interfere with the

effective operation of this ~~Charter~~ Charter, or any amendment thereto, or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this ~~Charter~~ Charter, or any amendment thereto, becomes fully effective, are superseded to the extent that they are inconsistent or interfere with the effective operation of this ~~Charter~~ Charter, or any amendment thereto, or of ordinances or resolutions adopted pursuant thereto.

11.05 - Survival of Powers and Validations Sections

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, or any amendment thereto, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, or any amendment thereto, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, or any amendment thereto, and the acts of the City Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of ~~Milford~~ Milford, or any amendment thereto, or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this ~~Charter~~ Charter, or any amendment thereto, shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, or any amendment thereto, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, or any amendment thereto, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of ~~Milford~~ Milford, or any amendment thereto, immediately preceding the adoption of this ~~Charter.~~ Charter, or any amendment thereto.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

11.06 - Headings.

The heading of any article, paragraph, subparagraph or section of this Charter shall be for reference purposes only and shall not be deemed to have a substantive meaning.

ARTICLE XII. - REPEALER

This Act shall operate to amend, revise and consolidate "An Act to Reincorporate the City of Milford", being Chapter 148, Volume 72, Laws of Delaware, and the several amendments and supplements thereto. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in any way invalidate the remaining provisions of this Act.