



Sponsor: Sen. Bunting & Rep. Price

DELAWARE STATE SENATE

141st GENERAL ASSEMBLY

SENATE BILL NO. 9

AN ACT TO REINCORPORATE THE TOWN OF SELBYVILLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 WHEREAS, the present Charter of The Mayor and Council of the Town of Selbyville was enacted
2 in 1931; and

3 WHEREAS, in the ensuing years, there have been innumerable amendments and many of the
4 provisions have become outdated and, in some instances, invalid; and

5 WHEREAS, it is deemed desirable that the Charter of the Town of Selbyville, being Chapter 166,
6 Volume 37, Laws of Delaware, as amended, entitled "An Act to Reincorporate The Town of Selbyville,"
7 together with the various amendments and supplements thereto, be amended and revised in certain respects
8 and consolidated into one complete Act.

9 NOW THEREFORE:

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

11 (Two-thirds of all members elected to each house thereof concurring therein):

12 Section 1. INCORPORATION. The inhabitants of the Town of Selbyville within the corporate
13 limits as hereinafter defined in this Charter or as extended as hereinafter provided are hereby declared to be
14 a body politic incorporated in law and equity and shall be able and capable to make and use a corporate seal
15 and to alter and renew the same at pleasure, to sue and be sued, plead and be impleaded, answer and be
16 answered, defend and be defended in all courts of law or equity, or any other place whatsoever, by the
17 corporate name of "Town of Selbyville."

18 Section 2. TERRITORIAL LIMITS. The present boundaries and limits of the Town of Selbyville
19 are hereby established and declared as set out on a plot of the Town of Selbyville dated June 16, 2000,

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20 prepared by Land Tech LLC, and recorded in the Office of the Recorder of Deeds, in and for Sussex
21 County, in Georgetown, Delaware, in Plot Book 67, pages 313-314, and as the same is amended from time
22 to time.

23 Section 3. STRUCTURE OF GOVERNMENT. The government of the Town and the exercise of
24 all powers conferred by this Charter, except as otherwise provided herein, shall be vested in a Mayor and
25 Town Council.

26 3.1 The Town Council shall be composed of four (4) members.

27 3.2 The Mayor and each member of the Town Council shall be nominated and elected
28 from the Town at large.

29 3.3 The Mayor and each Town Council member shall receive as compensation such
30 amount as shall be determined by the Town Council by ordinance or resolution for fulfilling his or
31 her duties and for attendance at any regular meeting, special meeting or workshop meeting. The
32 time of payment shall be determined by the Mayor and Council.

33 3.4 Qualifications. The qualifications for the Mayor and for each member of the Town
34 Council at the time of the election shall be as follows:

35 3.4.1 The Mayor and each member shall be at least twenty-one (21) years of
36 age.

37 3.4.2 The Mayor and each member shall be a citizen of the United States and of
38 the State of Delaware and a bona fide resident of The Town of Selbyville.

39 3.4.3 Each of the qualifications for Mayor and members of the Town Council
40 shall be continuing qualifications to hold office and the failure of the Mayor or any
41 member of the Town Council to have any of the qualifications required by this Section
42 during his term of office shall create a vacancy in the office.

43 3.4.4 The Mayor and Council, by majority vote of their disinterested members,
44 shall be the sole and final judge of the qualifications of its members and shall interpret
45 and apply the standards set forth in this Charter.

46 3.5 Vacancies. If any vacancy shall occur in the office of Mayor or Council member by
47 death, resignation, loss of residence in the Town, refusal to serve, or otherwise, the same may be

filled by a majority vote of the remaining members of the Mayor and Town Council, the person or persons so chosen to fill such vacancy shall be qualified as in the case of newly elected members and shall hold office for the remainder of the unexpired term.

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

3.7 Term of Office

3.7.1 The term of office for the Mayor and for each member of the Town Council shall be two (2) years, commencing at the annual meeting of the Town Council following his or her election and continuing until his or her successor is duly elected and qualified.

3.7.2 The present Mayor and Council members and other officers appointed to serve in office at the time of enactment of this reincorporation shall continue to serve from and after the effective date of this Charter until their successors are duly elected or appointed.

Section 4. ENUMERATION OF POWERS.

4.1 The Town shall have and enjoy all the powers possible for a municipal corporation to have under the Constitution and laws of the State of Delaware, as full and complete as though they were specifically enumerated in this Charter.

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

76 4.2.1 To have, take, purchase, receive, possess, enjoy and retain by lawful
77 means, to it and its successors and assigns within said Town, or beyond the limits thereof
78 land, tenements, hereditaments, goods, chattels and effects of what kind, nature or quality
79 so ever necessary for municipal purposes, and the same to sell, grant, demise, alien or
80 dispose of the same at pleasure.

81 4.2.2 To receive devises, bequests and donations of all kinds of property within
82 said Town and beyond the limits thereof for its own use and benefit, or in trust for
83 charitable, benevolent, educational or other public purposes, and to do all acts necessary
84 to carry out the purposes of such devises, bequests, gifts and donations.

85 4.2.3 To acquire or erect and maintain public buildings, libraries, hospitals,
86 asylums and reformatory institutions, and to regulate and control the management of the
87 same.

88 4.2.4 To lay out, establish, maintain or vacate, parks and squares; to lay out,
89 open and reopen, grade, extend, widen, improve or vacate curb and recurb, pave and
90 repave, streets and alleys, sidewalks, crossings and other highways; to construct, keep in
91 repair or vacate, bridges and viaducts; to construct, cleanse, maintain or vacate sewers,
92 drains, gutters and other works for the disposition of drainage and sewerage of said
93 Town, to regulate and control the sue of such parks, squares, streets, alleys, sidewalks,
94 crossings and other highways, bridges and viaducts, sewers, drains, gutters and other
95 works for the disposition of sewage and the drainage of said Town, and to provide, by
96 ordinance, for the removal of snow, ice, dirt or other foreign substances from the
97 sidewalks, gutters and pavements in said Town, at the expense of property owners or
98 occupiers; the jurisdiction and control over the squares, streets and alleys, sidewalks,
99 crossings and other highways to extend from building line to building line.

100 4.2.5 To enter upon and condemn, private property required for municipal
101 purposes within the Town, or within one mile of its limits, and assess the benefits and
102 damages thereof, and have the same ascertained, collected and paid in the manner now or

hereafter to be prescribed by law for the condemnation of land for municipal purposes in said Town.

4.2.6 To lay out streets and fix the grade thereof on any land immediately contiguous to the boundary line of said Town and within one mile thereof,

4.2.7 To prevent vice, drunkenness and immorality.

4.2.8 To provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants.

4.2.9 To prohibit all gaming and fraudulent devices.

4.2.10 To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games.

4.2.11 To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair or replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, sewer, drain, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb or gutter or portion thereof in the Town; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; to enter into contracts or agreement for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of the street, lane, alley, roadway or other public thoroughfare within the Town.

4.2.12 To establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same.

4.2.13 To prohibit, remove or regulate the erection of any stoop, step, platform, bay window, cellar, gate, area, descent, sign, post or any other erection or projection in, over, upon or under any street, highway, alley, lane, water course, park, lake, sidewalk, crosswalk, sewer, drain, aqueduct or pipeline of the Town.

131 4.2.14 To set by resolution such compensation for the Mayor, members of the
132 Town Council, officers, and employees as the Mayor and Town Council may determine.

133 4.2.15 To provide an ample supply of potable water for the Town and its
134 inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend,
135 enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines,
136 stations, tanks, elevated storage, standpipes, water mains, fire hydrants and all other
137 equipment, property or rights used in or about the collection, storage, purification,
138 conveyance, or distribution or sale of water; to regulate and prescribe for what public or
139 private purposes the water furnished by The Town of Selbyville may be used, the manner
140 of its use, the amounts to be paid by the users thereof, the means whereby such amounts
141 shall be collected and the fines or penalties, or both, for any willful or negligent injury, or
142 damage to or interference with the water system or the equipment of the Town; to furnish
143 or refuse to furnish water from the Town system to places and properties outside the
144 Town limits; and to contract for and purchase water and distribute the same to users
145 within or without the Town with the same full powers as though such water had been
146 initially reduced to usefulness by the municipality itself.

147 4.2.16 To provide, construct, extend, maintain, manage and control a sewer
148 system and/or a sewage treatment and disposal plant and facilities for the health,
149 sanitation and convenience of the inhabitants of the Town; to regulate and prescribe for
150 what private or public uses or purposes the system may be used, the manner of its use, the
151 amounts to be paid by the users thereof, the means whereby such amounts shall be
152 collected and the fines or penalties or both, for any willful or negligent injury or damage
153 to, or interference with, the said system, plan or facilities. To furnish or refuse to furnish
154 sewer disposal service from the Town system to places and properties outside the Town
155 limits. In the interest of the public's health, to compel any and all properties in the Town
156 to be connected to the sewer system of the Town; and to contract for and purchase sewer
157 disposal service and to resell the same to users within or without the Town with the same

158 full powers as though such service had been initially provided by the facilities therefor of
159 the Town itself.

160 4.2.17 To provide, construct, extend, maintain, manage and control the plant
161 and system, or plants and systems, for the generating, manufacturing and distributing of
162 electric current or gas, or both, to the inhabitants of the Town and for lighting the streets,
163 highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks,
164 wharfs, docks, public buildings or other public places in the Town and to this end, to
165 acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control
166 and dispose of transmission and distribution lines, pipes, mains and other conveyances
167 for any such current or gas as may be necessarily proper to light the Town, and to furnish
168 proper connections for electric current and gas to the properties of the inhabitants of the
169 Town who may desire the same; to regulate and prescribe for what private or public
170 purposes the current or gas furnished by the Town may be used, the manner of its use, the
171 amount to be paid by the users thereof, the means whereby such amounts are to be
172 collected and the fines or penalties, or both, for any willful or negligent injury or damage
173 to or interference with the electric or gas system or systems of the Town; to furnish or
174 refuse to furnish electric current or gas from the Town's system or systems to places and
175 properties outside the Town limits; and to contract for and purchase electric current or
176 gas and distribute the same to users within or without the Town with the same full powers
177 as though such current or gas had been initially reduced to usefulness by the Town itself.

178 4.2.18 If necessary for public health or safety, to regulate and control within the
179 Town the drainage of all water and to that end to alter or change the course and direction
180 of any natural water course, runs and rivulet within the Town, to regulate, maintain, clean
181 and keep the same open, cleaned and unobstructed, and to provide, construct, extend and
182 maintain, manage and control a surface water drainage system and facilities for the
183 health, sanitation and convenience of the inhabitants of the Town.

184 4.2.19 To provide, construct, extend, maintain, manage and control
185 embankments, or fills for the preservation of any high land within the limits of the Town

186 and contiguous thereto to the end that the same may be preserved, properly protected and
187 that the general public might enjoy the use thereof.

188 4.2.20 To grant franchises or licenses to any responsible person, firm,
189 association or corporation for such period of time, upon such terms, restrictions,
190 stipulations and conditions and for such consideration of the Town Council shall deem in
191 the best interest of the municipality, to use the present and future streets, highway, lanes,
192 alleys, water courses, parks, lakes, sidewalks, crosswalks, and other public places of the
193 Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage,
194 electric current, telephone, telegraph, television, railroad (excepting railroads or railways
195 engaged in Interstate Commerce), bus, taxi or other transportation, carrier or public
196 service to the Town, unto the persons, firms or corporations residing or located therein
197 and for the purpose of transmitting the same from or through the Town to points outside
198 the limits thereof, and for the purpose of vending any article of merchandise or service
199 upon or from any vehicle upon any present and future street, highway, lane, alley, etc.;
200 provided that no exclusive franchise or license shall be granted for any such purpose to
201 any person, firm, association or corporation whomsoever.

202 4.2.21 To regulate and control the exercise of any license or franchise
203 mentioned in this Charter, or intended so to be.

204 4.2.22 To direct, regulate and control the planting, rearing, treatment and
205 preserving of ornamental shade trees in the streets, avenues, highway, parks and grounds
206 of the Town and to authorize or prohibit the removal or destruction of said trees.

207 4.2.23 To direct the digging down, draining, fill up, cleaning, cutting or fencing
208 of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous
209 or unwholesome or necessary to carry out any improvements authorized by this Charter.

210 4.2.24 To provide for or regulate the numbering of houses and lots on the
211 streets and the naming of streets and avenues.

212 4.2.25 To regulate, control or prevent the use or storage of gun powder,
213 fireworks, tar, pitch, resin, and all other combustible materials and the use of candles,

lamps, and other lights in stores, shops, stables and other places; to suppress, remove or secure any fireplace, stove, chimney, oven, broiler, or other apparatus which may be dangerous in causing fires.

4.2.26 For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the manner of building or removal of dwelling houses and other buildings; to establish a Code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material; and, generally, to exercise all powers and authorities vested in the legislative body of cities and incorporated Towns under and by virtue of Chapter 3, Title 22, Del. C. of 1974, and all amendments heretofore or hereafter adopted.

4.2.27 To acquire, build, erect and maintain a suitable place as a lock-up or jail for the Town which shall be used as a place of detention for persons convicted of violations of law or ordinance, or for detention of persons accused of violations of law or ordinances, for a reasonable time in cases of necessity prior to hearing and trial; and to provide for the restraint, support and employment of paupers, beggars and vagrants; provided that any correctional institution located in Sussex County may be used for any such purpose.

4.2.28 To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town.

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

4.2.30 To provide for the punishment of a violation of any ordinance of the Town by fine or imprisonment, or both, not exceeding One Thousand Dollars (\$1,000.00) or sixty (60) days imprisonment or both as well as the Town's costs and expenses including reasonable attorney's fees.

4.2.31 To be indemnified by imposing and collecting fines and penalties imposed by any governmental agency on the Town and Town's costs and expenses including reasonable attorney fees from the person or entity responsible.

4.2.32 To provide for the organization of a fire department and/or ambulance service and/or emergency treatment service and the control and government thereof; to establish fire limits and to do all things necessary for the prevention or extinguishment of fires; and, at the discretion of the Town Council, to contribute, donate or give an amount or amounts unto any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town; provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable.

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

4.2.34 To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; provided however, that there shall be no limitation upon the amount which may be raised from the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether hereinbefore or hereafter incurred.

4.2.35 To levy and collect a personal or per capita tax upon all persons resident within the corporate limits of the Town of Selbyville to be used for any and all municipal purposes.

4.2.36 To levy and collect taxes upon all telephone, telegraph, communications, power poles pipelines, rail lines or other constructions or erections of a like character, erected within the limits of the Town, together with the wire or other appliances thereto or therein attached; expressly excepting all telephone, telegraph, power lines or poles and

270 rail lines owned or operated by any railroad or railway company engaged in Interstate
271 Commerce for any and all purposes and to this end may at any time direct the same to be
272 included in or added to the Town assessment. In case the owner or lessee or such
273 constructions or erections, wires or other appliances shall refuse or neglect to pay the
274 taxes levied thereon, in addition to the remedies provided for the collection thereof set
275 forth in this Charter, the Town Council shall have the authority to cause the same to be
276 removed.

277 4.2.37 To license, tax and collect fees annually for any and all municipal
278 purposes (including the cost and expense of advertising the Town) of such various
279 amounts as the Town Council from time to time shall fix from any individual, firm,
280 association or corporation carrying on or practicing any business, profession or
281 occupation within the limits of the Town.

282 4.2.38 To determine from which authorized source and in what proportion taxes
283 shall be levied and used each year to raise the revenue or funds required to meet the
284 general expenses of the Town and all funding, amortization and interest requirements on
285 its outstanding bonds or other indebtedness.

286 4.2.39 To provide for the collection of and disbursement of all moneys to which
287 the Town may become entitled by law, including licenses, fines and penalties where no
288 provision for the collection and disbursement thereof is otherwise provided in this
289 Charter.

290 4.2.40 To acquire, and/or to vacate the use of lands, tenements, personal
291 property, easements, rights of way, or any interest in property, either within or without
292 the limits of the Town, by way of condemnation and eminent domain for any proper and
293 lawful municipal purpose or whenever required properly to carry out, exercise or fulfill
294 any power conferred upon or delegated to the Town of Selbyville by this Charter.
295 Proceedings by way of condemnation in any case shall be as prescribed in Chapter 61,
296 Title 10, Del. C. of 1974, as heretofore or hereafter amended.

4.2.41 To appropriate money to pay the debts liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereat, and to transfer temporarily money from one fund to another fund of the Town in case of emergency.

4.2.42 To provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge, or other amount due the Town by the performance of labor or service of the Town by any person owing the same.

4.2.43 To inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena.

4.2.44 To make and use a corporate seal, and to alter and renew the same at pleasure.

4.2.45 To hold and acquire by gift, negotiation and purchase, devise, lease, or condemnation, property both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to, providing sites for constructing, improving, extending, altering, or demolishing: public buildings; parks; streets, squares, lanes, alleys, and sidewalks; sewer systems, including but not limited to sewage lines, conduits, sewage disposal or treatment plants, and all appurtenances thereto; water systems, including but not limited to, water plants, wells, lines, conduits and all appurtenances thereto; electric systems, including but not limited to, electric plants, substations, distribution systems, lines, conduits and all appurtenances thereto; gas systems, including but not limited to, storage tanks, distribution systems, conduits and all appurtenances thereto; recreational facilities, including but not limited to, public bathing swimming pools, gymnasiums, athletic fields, bicycle paths, tennis, basketball or paddleball courts and all appurtenances thereto; for slum clearance and redevelopment, urban renewal, revitalization, or rehabilitation of blighted areas, or removal of dangerous buildings; for the protection of the health of the citizens of the

Town; for the proper furnishing of adequate municipal services to the citizens of the Town and those persons residing in such proximity to, but beyond the corporate limits of the Town who can be furnished with such municipal services, in the discretion of the Town Council to the mutual benefit and advantage of the Town and such non-residents thereto, upon such terms, charges, and conditions as the Town Council may determine and approve.

4.2.46 To sell, grant, alienate, lease, mortgage, manage, hold and control such property as the interests of the Town may require except as prohibited by the Constitution of the State of Delaware or as restricted by this Charter.

4.2.47 To pay for the acquisition, construction, improvement, repair, extension, alteration, or demolition of any municipal or public property, real, personal or mixed, from the general fund of the Town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which land and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the Town by any governmental entity of the United States or the State of Delaware where the proceeds of the grant or loan are for the purposes for which lands and premises are authorized by this Charter to be acquired.

4.2.48 To adopt and enforce such ordinances regulating traffic, on all streets, alleys, avenues, and public ways within the Town as are not inconsistent with the motor vehicle laws of the State of Delaware.

4.2.49 To define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and to cause the cost of such abatement or removal to be paid by the legal entity causing or permitting same to exist.

4.2.50 To adopt ordinances providing for the condemnation, upon inspection, of any building or structure in the Town which is determined, on the basis of standards set forth in such ordinance(s) to be a fire hazard or otherwise unsafe, and cause the same to be torn down or removed.

352 4.2.51 To impose, upon new development or construction or upon first-time
353 occupancy of new construction, such "impact fees" as are reasonably calculated to
354 recover the cost of installing, enlarging, improving, or expanding public or municipal
355 improvements which have a rational nexus to such new construction.

356 4.2.52 To establish by ordinance duly adopted pursuant to this Charter a
357 pension plan or a health and welfare plan, or both, for the employees of the Town under
358 such terms and conditions as the Town Council, in its discretion, may deem most
359 appropriate.

360 4.2.53 To determine what purposes are deemed to be public purposes or
361 municipal purposes.

362 4.2.54 The Town Council of said Town shall have full power and authority to
363 use the money in the Treasury of said Town, or any portion thereof, from time to time,
364 for the improvement, benefit, protection, ornamentation and best interests of the said
365 Town, as Council may deem proper, and to use Town money to accomplish and carry
366 into effect all acts and things which it has power to do by virtue of the Constitution, Laws
367 of Delaware, this Act and all lawful ordinances and resolutions of Council.

368 4.2.55 To make, adopt and establish all such ordinances, regulations, rules and
369 by-laws not contrary to the laws of the State of Delaware and the United States as the
370 Town Council may deem necessary to carry into effect any of the provisions of this
371 Charter or any other law of the State relating generally to municipal corporations or
372 which they may deem proper and necessary for the good government of the Town, the
373 protection and preservation of persons and property, and of the public health and welfare
374 of the Town and its inhabitants; provided, however, that any ordinance relating to the
375 public health of the Town and its inhabitants or designed to prevent the introduction or
376 spread of infectious or contagious diseases or to prevent nuisances affecting the same
377 shall apply not only within the corporate limits of the Town but as well to all areas and
378 persons outside the Town within one (1) mile from said limits.

379 4.3 The powers of the Town under this Charter shall be liberally construed in favor of
380 the Town, and the enumeration of particular powers by this Charter shall not be held or deemed to
381 be exclusive, but, in addition to the powers enumerated herein, implied hereby, or appropriate to
382 the exercise thereof, the Town shall have and may exercise any and all powers which, under the
383 Constitution of the State of Delaware, it would be competent to this Charter to specifically
384 enumerate. All powers of the Town, whether express or implied, shall be exercised in the manner
385 prescribed by this Charter, or is not proscribed herein, then in the manner provided by ordinance
386 or resolution of the Town Council. The Council may, by resolution, do such other act or thing
387 incidental, necessary, or useful in connection with any of the matters in this Charter duly
388 authorized.

389 4.4 The Town may exercise any of its powers or perform any of its functions and may
390 participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any
391 one or more states or civil divisions or agencies thereof, or the United States or any agency
392 thereof, except as prohibited or restricted by the Constitution or laws of the State of Delaware or
393 by this Charter.

394 4.5 In the general performance of its duties, the acts, doings and determination of a
395 majority of the Mayor and Council of said Town shall be as good and binding as the acts, doings
396 and determination of the whole. In case of vacancy or vacancies in the office of Mayor or
397 Council, the remaining members, until such vacancy or vacancies shall be filled as hereinbefore
398 provided, shall have the same power and authority as the whole.

399 Section 5. ANNEXATION OF TERRITORY. In the event it becomes feasible and necessary in
400 the future for the Town to enlarge its then existing limits and territory, such annexation accomplished
401 pursuant to the following procedures shall be lawful:

402 5.1 Initiation of Annexation Proceedings

403 5.1.1 If all of the property owners of a territory contiguous to the then existing
404 corporate limits and territory of the Town, by written Petition with the signature of each
405 such Petitioner duly acknowledged, shall request the Mayor and Council to annex that
406 certain territory in which they own property, the Mayor of the Town shall, by

Resolution, appoint a Committee composed of not less than three (3) of the members of the Council to investigate the possibility of annexation. The Petition presented to the Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and Council. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Mayor and Council may then pass a second Resolution annexing such territory to the Town. Such Resolution shall be passed by the affirmative vote of a majority of all the members of the Mayor and Council.

5.1.2 In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided as if the annexation were proposed by five (5) or more property owners but less than all the property owners of a territory contiguous to the then limits and territory of the Town.

5.1.3 If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the Town by written Petition with the signature of each such Petitioner duly acknowledged shall request the Mayor and Council to annex that certain territory in which they own property, the Petition presented to the Mayor and Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation.

433 5.2 Procedure

434 5.2.1 The Mayor and Council, by majority vote of the members thereof may, by
435 Resolution, propose that a committee composed of not less than three (3) of the members
436 of the Council be appointed by the Mayor to investigate the possibility of annexing any
437 certain territory contiguous to the then limits and territory of the Town.

438 5.2.2 Not later than ninety (90) days following its appointment by the Mayor, as
439 aforesaid, the Committee shall submit a written Report containing its findings and
440 conclusions to the Mayor and the Council. The Report so submitted shall include the
441 advantages and disadvantages of the proposed annexation both to the Town and to the
442 territory proposed to be annexed and shall contain the recommendation of the Committee
443 whether or not to proceed with the proposed annexation and the reasons therefor.

444 5.2.3 In the event that the Committee appointed by the Mayor concludes that
445 the proposed annexation is advantageous both to the Town and to the territory proposed
446 to be annexed, within thirty (30) days after receiving a report, a second Resolution shall
447 then be passed by the Mayor and Council proposing to the property owners and residents
448 of both the Town and the territory proposed to be annexed that the Town proposes to
449 annex certain territory contiguous to its then limits and territory. The second Resolution
450 shall contain a description of the territory proposed to be annexed and shall fix a time and
451 place for a public hearing on the subject of the proposed annexation.

452 5.2.4 In the event that the Committee appointed by the Mayor concludes that
453 the proposed annexation is disadvantageous either to the Town or to the territory
454 proposed to be annexed, the Resolution proposing annexation to the property owners and
455 residents shall require the affirmative vote of three-fourths (3/4) of all the members of the
456 Mayor and Council. If the Resolution shall fail to receive the affirmative vote of three-
457 fourth (3/4) of the members of the Mayor and Council, the territory proposed to be
458 annexed shall not again be considered for annexation for a period of one (1) year from the
459 date that the Resolution failed to receive the required affirmative vote.

460 5.2.5 The said second Resolution adopted by the Mayor and Council setting
461 forth the above information shall be printed in a newspaper having a general circulation
462 in the Town at least one (1) week prior to the date set for the public hearing, or, at the
463 discretion of the Mayor and Council, the said Resolution shall be posted in four (4) public
464 places both in the Town and in the territory proposed to be annexed.

465 5.2.6 Following the public hearing, but in no event later than thirty (30) days
466 thereafter, a Resolution shall then be passed by a majority of the members of the Mayor
467 and Council ordering a Special Election to be held not less than thirty (30) nor more than
468 sixty (60) days after the said public hearing on the subject of the proposed annexation.
469 Passage of this Resolution shall ipso facto be considered the determination of the Council
470 to proceed with the matter of the proposed annexation.

471 5.2.7 The notice of the time and place of said Special Election shall be printed
472 within thirty (30) days immediately preceding the date of this Special Election in at least
473 two (2) issues of a newspaper having a general circulation in the Town, or, in the
474 discretion of the Mayor and Council, the said notice may be posted in four (4) public
475 places, both in the Town and in the territory proposed to be annexed at least fifteen (15)
476 days prior to the date set for the said Special Election.

477 5.2.8 At the Special Election, every property owner, whether an individual,
478 partnership or a corporation both in the Town and in the territory proposed to be annexed
479 shall have one (1) vote. Every citizen of either the Town or of the territory proposed to
480 be annexed over the age of eighteen (18) years who is not a property owner shall have
481 one (1) vote. In the case of property owned by more than one (1) person, firm or
482 corporation or any combination thereof whether as tenants in common, joint tenants, or as
483 tenants by the entireties, each such joint owner shall have one (1) vote. In the event that a
484 person owns property or has an ownership interest in property both in the Town and in
485 the territory proposed to be annexed and resides in either place, he may vote only where
486 he resides. In the event that a person owns property both in the Town and in the territory
487 proposed to be annexed but does not reside in either place, he may vote only in the Town

488 and not in the territory proposed to be annexed. Property owners whose property is
489 exempt from taxation or is not assessed for taxation shall not be entitled to vote. The
490 books and records of the Town in the case of property owners and citizens of the Town
491 and the books and records of the Board of Assessment of Sussex County in the case of
492 property owners and residents of the territory proposed to be annexed shall be conclusive
493 evidence of the right of such property owners and citizens to vote at the Special Election.

494 5.2.9 In the event that an individual on behalf of a partnership, corporation, or
495 other entity holds an unrevoked Power of Attorney duly executed and acknowledged
496 specifically authorizing the said individual to vote at the said Special Election, a duly
497 authenticated copy of the Power of Attorney shall be filed in the Office of the Town.
498 Said Power of Attorney so filed shall constitute conclusive evidence of the right of said
499 person to vote in the Special Election.

500 5.2.10 The Mayor and Council shall cause voting machines to be used in the
501 Special Election, the form of ballot to be printed as follows:

502 [] For the proposed annexation

503 [] Against the proposed annexation.

504 5.2.11 The Mayor shall appoint three (3) persons to act as a Board of Special
505 Election, at least one (1) of whom shall own property in the Town and at least one (1) of
506 whom shall own property in the property proposed to be annexed. One (1) of the said
507 persons so appointed shall be designated the Presiding Officer. Voting shall be
508 conducted in a public place as designated by the Resolution calling the Special Election.
509 The Board of Special Election shall have available, clearly marked, two (2) voting
510 machines. All votes cast by those persons, partnerships or corporations authorized to
511 vote as residents or property owners in the territory proposed to be annexed shall be
512 accomplished on one such voting machine and all ballots cast by those persons,
513 partnerships, or corporations who are authorized to vote as residents or property owners
514 of the Town shall be accomplished on the other such voting machine. The polling place
515 shall be open from one o'clock in the afternoon, prevailing time until five o'clock in the

afternoon, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

5.2.12 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 Mayor and Council. Said Certificate shall be filed with the papers of the Council.

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

5.3 Annexation Agreement.

5.3.1 Notwithstanding any provision herein to the contrary, where, pursuant to this §5 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 Town, such petition may be made contingent upon an annexation agreement with the Town 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 Mayor and Council approve such an agreement and vote to accept a petition under this §5 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; that is, (1) the resolutions and notices adopted by the Town Council pursuant to §5.2.3, §5.2.4, §5.2.5, §5.2.6, and §5.2.13 shall recite that the proposed annexation includes and is subject to an annexation agreement, shall briefly summarize its terms, and shall state that copies of the Agreement are available upon request at the Town Hall; (2) if the results of the election are favorable to the proposed annexation as provided by §5.2.13 of this Charter, the resolution annexing the territory (as provided by §5.2.13) shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference; and the Town shall be bound to honor the provisions of such agreement unless released therefrom by the petitioner(s).

5.3.2 Provided, further, that no agreement made at the time of annexation under this §5.3 shall extend beyond seven (7) years from the date the property is annexed into the Town; and such agreements shall be null and void, and unenforceable after the expiration of seven (7) years.

5.3.3 An annexation agreement may be modified or amended by mutual agreement of the petitioner and the Mayor and Council at any time prior to the resolution ordering the special election pursuant to §5.2.5 of this Charter, but any material modification or amendment shall be deemed to be the withdrawal of the original petition and the filing of a new petition under §5.1.1 or §5.1.2.

570 5.4 Additional Annexation Procedures.

571 5.4.1 If the territory proposed to be annexed includes only territory which is
572 exempt from taxation, which is owned by the State of Delaware, or which is not assessed
573 on the books of the Board of Assessment of Sussex County, no election shall be
574 necessary and the Mayor and Council may proceed to annex such territory by receiving a
575 certified copy of a Resolution requesting such annexation if such property is owned by a
576 corporation or by a written Petition with the signature of each such Petitioner duly
577 acknowledged if such property is owned by an individual, requesting the Mayor and
578 Council to annex that certain territory in which they own property or by resolution of the
579 Town Council. The certified copy of the Resolution or the Petition shall include a
580 description of the territory requested to be annexed and the reasons for the requested
581 annexation. Upon receipt of the certified copy of the Resolution or the Petition, the
582 Mayor shall, by resolution, appoint a committee composed of not less than three (3) of
583 the elected members of the Council to investigate the possibility of annexation. Not later
584 than ninety (90) days following its appointment by the Mayor, as aforesaid, the
585 Committee shall submit a written report containing its findings and conclusions to the
586 Mayor and Council. The report so submitted shall include the advantages and
587 disadvantages of the proposed annexation both to the Town and to the territory proposed
588 to be annexed and shall contain the recommendation of the Committee whether or not to
589 proceed with the proposed annexation and the reasons therefor. In the event that the
590 Committee appointed by the Mayor concludes that the proposed annexation is
591 advantageous both to the Town and to the territory proposed to be annexed, the Mayor
592 and Council may then pass a second Resolution annexing such territory to the Town of
593 Selbyville. Such Resolution shall be passed by the affirmative vote of a majority of all
594 the members of the Mayor and Council. In the event that the Committee appointed by
595 the Mayor concludes that the proposed annexation is disadvantageous either to the Town
596 or to the territory proposed to be annexed, the Resolution shall be passed by three-fourths
597 (3/4) of all the members of the Mayor and Council. If the Resolution fails to receive the

required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of The Town of Selbyville shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of The Town of Selbyville from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.

5.4.2 Highways, Streets, Roads and Alleys; Ponds, Canals, Streams, and Other Waters. Contiguity with the Town's existing corporate limits, or with other territory which is itself contiguous with the Town's existing corporate limits, shall not be deemed interrupted by the existence of any highway, street, road, alley, pond, canal, stream, or other body of water which passes through, or lies within the territory to be annexed.

5.4.3 Limitations. No action contesting the annexation of any territory under this section shall be brought after the expiration of sixty (60) days from the publication of a notice in at least two newspapers, both of general circulation in the Town and in the territory annexed, which notice shall contain the following information:

5.4.3.1 Notice that the Town has annexed such territory and a description thereof.

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

5.4.3.3 Such notice shall be in bold print or bordered in black in such manner as to call attention thereto.

5.4.3.4 In addition to publication as herein provided, the Mayor and Council shall cause a public notice, containing the information set out in subsections (a) and (b) above (using date of "posting" for date of "publication"), to be posted in at least five public places in the Town and in at least one place, viewable to the public, in the territory proposed to be annexed.

5.4.3.5 In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

Section 6. ELECTIONS.

6.1 Nominations. Each candidate for the Office of Mayor or member of Town Council shall be nominated as follows:

6.1.1 Each candidate for Mayor or member of Town Council shall notify the Secretary-Treasurer of the Town Council in writing of his or her candidacy.

6.1.2 All notifications of candidacy shall be filed with the Secretary-Treasurer of the Town Council not later than four o'clock in the afternoon, prevailing time, on February 10. If such day be a legal holiday, the last day for filing notification of candidacy shall be the last business day immediately preceding February 10. Such notification of candidacy shall be upon a suitable form or blank furnished by the Town, which said statement shall be dated, signed by the candidate.

6.1.3 The Mayor and Council, by majority vote of the disinterested members, shall be the sole and final judge of the qualifications of its members and shall interpret and apply the standards set forth in this Charter.

6.2 Manner of Holding Annual Municipal Election. The procedure for holding the Annual Municipal Election shall be as follows:

6.2.1 The Annual Municipal Election shall be held at a time and place designated by the Mayor and Council within the corporate limits of the Town of Selbyville on the first Saturday in March of each and every year, the first said Annual

Municipal Election to be held pursuant to this Charter to be held on the first Saturday in March, A.D. 2001. Due notice of said election shall be given by posting notices thereof in five (5) public places within the corporate limits of the Town of Selbyville not less than ten (10) days before the day of such Annual Municipal Election, and by publishing at least one (1) notice in a newspaper of general circulation in the Town at least ten (10) days before the day of such Annual Election.

6.2.2 At the Annual Municipal Election to be held on the first Saturday in March, A.D. 2001, the Mayor and two (2) members of the Town Council shall be elected. The Mayor and each of the Councilmen so elected shall serve for a period of two (2) years or until his successor has been duly elected and qualified.

6.2.3 At the Annual Municipal Election to be held on the first Saturday in March, A.D. 2002, two (2) members of the Town Council shall be elected. Each of the Council members who are elected shall serve for a term of two (2) years, or until his/her successor has been duly elected and qualified.

6.2.4 Thereafter, at each Annual Municipal Election, there shall be elected two (2) Councilmen who shall serve for a term of two (2) years or until their successors have been duly elected and qualified, except at the Annual Municipal Election in the year in which the Mayor is to be elected, at which time there will be elected a Mayor and two (2) Town Councilmen.

6.2.5 The Mayor and members of the Town Council of Selbyville who hold office at the time of passage of this Act shall continue to hold office until their respective successors have been duly elected and qualified.

6.2.6 The Annual Municipal Election shall be conducted by a Board of Election consisting of an Inspector and two (2) Judges appointed by the Mayor of The Town of Selbyville with the concurrence of a majority of the members of the Town Council not later than the last regular meeting of the Town Council prior to the date of the Annual Municipal Election. The Board of Election shall determine who is and who is not lawfully entitled to vote at the Annual Municipal Election, take reasonable steps to see

that the law pertaining to the Annual Municipal Election receives compliance and for the purpose of counting the votes and certifying the result to the Town Council. The Election Board shall have the power to subpoena persons and officers of the Town of Selbyville and books, records and papers relative to the determination of the validity of any vote or votes offered. If any of the officers so chosen and designated to conduct the Annual Municipal Election shall not be present at the polling place at the time designated for the holding of the Annual Municipal Election, it shall be lawful for the qualified voters present at the polling place at the time of holding said Annual Municipal Election to elect from among their own number a person to fill each vacancy in such Board of Election caused by the absence of any member of the Board of Election. The Board of Election shall keep a list of all persons who voted at such Annual Municipal Election.

6.2.7 The Town Council shall cause to be printed sufficient ballots in order for each citizen to the Town to vote at the Annual Municipal Election. Said ballot shall contain the names of all persons nominated and shall designate the office for which each is a candidate, and such ballots shall be delivered to the Board of Election prior to the time for the opening of the polls at the Annual Municipal Election. Except as may otherwise be provided in this Charter, no ballots to be used for voting at the Annual Municipal Election shall be available for distribution to any person prior to the time of his or her actually presenting himself or herself for the purpose of voting; provided, however, that the Board of Election shall have available for distribution five (5) days prior to the date of the Annual Municipal Election sample ballots marked or defaced in such a manner that they cannot be used at the Annual Municipal Election. Only those ballots prepared in accordance with the provisions of this section shall be used at the Annual Municipal Election. Where voting machines or electronic voting devices are used, the procedures enacted by the General Assembly as Chapters 50 and 50A, Title 14, Del. C., shall receive compliance.

6.2.8 At such Annual Municipal Election, every person, male or female, who shall have attained the age of eighteen (18) years on the date of the Annual Municipal

Election and who shall be a bona fide resident of The Town of Selbyville shall have one (1) vote, provided he or she is registered on the "Books of Registered Voters" of the Town of Selbyville. The Town Council of the Town of Selbyville shall provide two (2) registers to be known as the "Books of Registered Voters" which are to be kept at the office of the Secretary-Treasurer of the Town Council. The Books of Registered Voters shall contain the following information for each registrant: the names of the registered voters arranged in alphabetical order, the address of the voter, the birth date of the voter, the date the registrant became a citizen of the United States, the date the registrant became a resident of The Town of Selbyville, and any other pertinent information. No person shall be registered upon the Books of Registered Voters unless he or she will have acquired the qualifications to vote in the Annual Municipal Election for the year in which he or she registers. A person shall be required to register only one (1) time. The Books of Registered Voters shall be maintained in the Town Office and shall be conclusive evidence of the right of any person to vote at the Annual Municipal Election. A person may register at the Town Office during the regular business hours of such Office until the close of business of such Office on February 10, or if such date is on a weekend or holiday, on the last business day prior to February 10, prior to the date of the Annual Municipal Election, by completing such forms as may be provided by the Town.

6.2.9 In the event that no person files for office for which an election is to be held within the time set forth in this Charter, the incumbent shall be deemed to be re-elected for a full term and it shall not be necessary to have an election.

6.2.10 In the event that only one (1) person files or is nominated for office for which an election is to be held within the time set forth in this Charter, the person who files or who is nominated shall be deemed to be elected for a full term and it shall not be necessary to have an election.

6.2.11 If two (2) or more candidates for the office of council member or for Mayor, shall receive an equal number of votes so that there shall not be an election of a Mayor or Council Member, the incumbent Mayor or Council Member shall continue in

office until the runoff election as herein provided is held. The Board of Election shall declare the election a tie and shall report that result to the Mayor and the Town Council which shall, within twenty (20) days thereafter, hold a Special Election between those candidates where a tie resulted under the same rules as hereinbefore set forth. No person shall be permitted to register to vote following the Annual Municipal Election and before the Special Election in order to vote at the Special Election.

Section 7. MEETINGS OF MAYOR AND COUNCIL.

7.1 Annual Meeting. Before entering upon the duties of their respective offices, the Mayor and each of the members of Council Elect shall be sworn by a Notary Public to perform faithfully and impartially the duties of their respective offices with fidelity. At the Annual Meeting following the Annual Municipal Election, the Mayor and Council shall meet at the Council Chamber and the newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity, as aforesaid.

7.1.1 At the Annual Meeting, held following the Annual Municipal Election, the Mayor and Council shall organize and elect a Vice-Mayor, who shall hold office for the term of one (1) year or until his or her successor shall be duly elected.

7.1.2 The Mayor and Council shall likewise select a Secretary-Treasurer who is not from their own number to serve until the Annual Meeting after the next Annual Municipal Election. The Mayor and Council may also select an Assistant Secretary-Treasurer to serve, as aforesaid, who may not be from among their own number and such other officers and employees as may be determined to be necessary.

7.2 Regular And Special Meetings. The Mayor and Council shall hold at least six (6) meetings in a year, the time and days of the meeting to be determined by Resolution of the Mayor and Council. If the day selected by the Mayor and Council shall be a legal holiday or if the meeting is postponed because of weather or other unavoidable reason, the meeting of the Mayor and Council shall be held as rescheduled by the Mayor. Special meetings shall be called by the Secretary-Treasurer upon the written request of the Mayor or any two (2) members of the Council, stating the day, hour and place of the special meeting requested, and the subject or subjects

proposed to be considered thereat. The Secretary-Treasurer shall thereon give written notice to the Mayor and to each member of the Council of the day, hour and place of such special meeting and the subject or subjects to be considered thereat.

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

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

Section 8. CONTRACTS.

8.1 It shall be unlawful for the Town Council to make or enter into any contract in excess of Two Thousand Dollars (\$2,000.00) in any year for materials, supplies, services, work or labor, for the benefit and use of The Town of Selbyville with the Mayor or any member of the Town Council or with any partnership in which the Mayor or any member of the Town Council is a general partner, or with any corporation in which the Mayor or any member of the Town Council is a director or controlling stockholder, or with any firm or company in which the Mayor or any member of the Town Council is pecuniarily interested, provided that, if all the remaining elected members of the Town Council shall vote to enter into such contract, then the Town may enter into such a contract. Any such contract executed without such unanimous vote shall be absolutely null and void.

8.2 All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by competitive bidding and the awarding of contracts to the lowest responsible bidder who submits a responsive bid; provided, however, that competitive bidding shall not be required in any of the following circumstances:

8.2.1 The aggregate amount involved is not more than One Hundred Thousand Dollars (\$100,000.00);

8.2.2 The purchase or contract is for personal or professional services;

8.2.3 The purchase or contract is for any service rendered by a University,
college or other educational institution;

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

8.2.5 The purchase or contract is for property or services for which it is
impracticable to obtain competition;

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

8.2.7 The materials to be purchased are to be used to complete a project under
the supervision of the Town;

8.2.8 The purchase or contract is for property or services for which the Mayor
and Council determines the prices received after competitive bidding are unreasonable as
to all or part of the requirements or not independently reached in open competition;

8.2.9 A public emergency as determined by the Mayor and Council exists.

8.2.10 The purchase or contract is for property for which the distance involved
or other factors in order to have maintenance performed, as determined by the Mayor and
Council, is unreasonable.

Section 9. DUTIES OF THE MAYOR AND PRESIDENT OF COUNCIL.

9.1 The Mayor shall preside at the meetings of the Council but shall have no vote on any
question except in case of a tie of the Council members. The Mayor shall have general
supervision of the administration of the Town and of the persons who may be employed by the
Council. The Mayor shall appoint all committees, receive complaints of nuisances, and other
complaints of citizens concerning violations of law and ordinances. The Mayor shall present a
report of complaints and nuisances and violations of law and ordinances to the Council at the first
meeting after receiving such complaints. The Mayor may require the Police Department, as
hereinafter provided for in this Act, to proceed upon such infractions or violations of law and
ordinances immediately in the event that he deems such action to be required. The Mayor shall

perform such other duties and have such other powers as the Council shall determine not in conflict with the provisions of this Charter.

9.2 The Mayor may, for any reasonable cause, by and with the consent and upon the address of a majority of all the members of the Council, remove from office any person appointed by him or any of his predecessors. The person against whom the Council may be about to proceed shall receive five (5) days' written notice thereof, accompanied by a statement of the cause alleged for the removal and shall be accorded a full and fair hearing, if such a request is received by the Mayor by certified mail with return receipt requested within ten (10) days following the date that notice of removal is received by such person.

9.3 The Mayor may appoint such other committees as he or she deems necessary for the proper administration of the Town or the Council may, by resolution, authorize the Mayor to appoint certain committees which are deemed necessary to carry out the provisions of this Act.

9.4 It shall be the duty of the Vice-Mayor of the Council, in the absence of or inability of the Mayor to act, to preside at all meetings of the Council and to perform such other duties and to have such other powers of the Mayor as are prescribed by the Charter of the Town of Selbyville or by any ordinance of the Council.

Section 10. SECRETARY-TREASURER.

10.1 The Secretary-Treasurer shall have charge and custody of books, journals, records, papers and other effects of the Town and shall keep the same in a safe and secure place. The Secretary-Treasurer shall keep a full and complete record of all the transactions in the Town. The Secretary-Treasurer shall file and keep in a safe place the seal of the Town of Selbyville and all papers and documents arising out of the proceedings of the Council of the Town of Selbyville relative to the affairs of the Town; shall deliver the same to his or her successor in office; and shall attest the seal of the Town of Selbyville when authorized by the Council and shall perform such other duties and have such other powers as may be prescribed by ordinance.

10.2 All books, records and journals of the Town of Selbyville in the custody of the Secretary-Treasurer may, in the presence of the Mayor, Vice-Mayor, Secretary-Treasurer, Assistant Secretary-Treasurer, Town Administrator or any member of the Council of the Town be

849 inspected by any registered voter of the Town desiring legitimate information at any time, or
850 times, as may be convenient and will not interfere with the regular routine of the business of the
851 Town.

852 10.3 All books, records, papers and documents in the custody of the Secretary-Treasurer
853 shall be open for inspection by the Mayor or members of the Council of the Town of Selbyville.

854 10.4 The Secretary-Treasurer shall be the custodian of all the funds of the Town and
855 shall deposit, or cause to be deposited, such funds in such banking institutions as may be
856 prescribed by the Mayor and Council. The Secretary-Treasurer, together with such other members
857 of the Mayor and Council as shall be authorized by resolution of the Mayor and Council, shall be
858 authorized to execute checks, but no funds shall be paid out except as authorized by the Mayor and
859 Council.

860 10.5 The Secretary-Treasurer shall keep a true, accurate and detailed account of all funds
861 received and of all funds paid out by the Secretary-Treasurer. The Secretary-Treasurer shall
862 preserve all vouchers for moneys paid out, and the books and records shall, at all times, be open to
863 inspection by the Mayor or any member of the Council and at such other times as may be required
864 by the Council. All such reports shall be a part of the minutes of the Council.

865 10.6 The Secretary-Treasurer shall file with the Town a bond with corporate surety
866 approved by the Mayor and Council in a sum not less than \$100,000, the premium for said bond to
867 be paid by the Town. The bond shall be conditioned upon the faithful performance by the
868 Secretary-Treasurer of his duties of office and the restoration to the Town in the case of his or her
869 death, resignation or removal from office of all books, papers, vouchers, funds and other property
870 of whatever kind in his possession belonging to the Town.

871 10.7 The Secretary-Treasurer shall perform such other duties relative to the finances of
872 the Town of Selbyville as the Council may from time to time prescribe or require.

873 10.8 Assistant Secretary-Treasurer. The duties and powers of the Secretary-Treasurer as
874 hereinbefore prescribed shall devolve upon the Assistant Secretary-Treasurer in the absence or
875 inability of the Secretary-Treasurer. The Assistant Secretary-Treasurer shall likewise perform

such other duties and have such other powers as may be prescribed by Resolution of the Mayor and Council of the Town.

Section 11. TOWN ADMINISTRATOR.

11.1 The Mayor, with the concurrence of a majority of all the members of the Council, may appoint a Town Administrator who shall be the Chief Administrative Officer of the Town at such compensation as shall be determined by the Mayor and Council.

11.2 The Mayor and Council may impose such qualifications for Town Administrator as may be deemed necessary; provided, however, that no person holding the office of Mayor or Town Councilman shall be chosen to be Town Administrator during his term of office as Mayor or Councilman.

11.3 In case of the absence or disability of the Town Administrator, the Mayor and Council may designate some qualified person to perform the duties of such office during his absence or disability.

Section 12. TOWN SOLICITOR. The Mayor, with the advice and consent of a majority of the members of the Council, shall select and appoint a Town Solicitor for an indefinite term who shall be removable at the pleasure of the Mayor and Council either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware, with offices in Sussex County. It shall be his or her duty to give legal advice to the Mayor and Council and other officers of the Town and to perform other legal services as may be required of him/her by the Mayor and Council.

Section 13. POLICE FORCE.

13.1 The Mayor and Council may establish a police force and, from time to time, make such rules and regulations as may be necessary for the organization, government and control of such police force. The police force shall preserve peace and order and shall compel obedience within the Town limits and for one (1) mile beyond the boundaries of the Town to the Ordinances of the Town and the laws of the State of Delaware. The police force shall have such other duties as the Mayor and Council shall, from time to time, prescribe. The Chief of Police shall be appointed by the Mayor at the Annual Meeting for a term of one (1) year or until his or her successor shall be appointed, by and with the advice and consent of a majority of all the members

of the Town Council and at such compensation as shall be determined by the Town Council. All members of the police force shall be paid such compensation as shall be determined by the Town Council.

13.2 Each member of the police force shall have police powers and shall be conservators of the peace throughout the Town, and they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. They shall compel the enforcement of all laws enacted by the Mayor and Council. In the case of a pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of the Town.

13.3 Every person sentenced to imprisonment by a Justice of the Peace or other court of competent jurisdiction shall be delivered by a member of the police force to the correction institution located in Sussex County to be there imprisoned for the term of his sentence.

13.4 In the case of an arrest, the person arrested may be taken before the nearest Justice of the Peace with offices in Sussex County who shall hear and determine the charge. In the case of an arrest at a time when the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Sussex County for imprisonment until such reasonable time thereafter as shall enable the Justice of the Peace to hear and determine the charge against such person.

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

Section 14. ANNUAL AUDIT. At the Annual Meeting hereinbefore provided, the Mayor, with the advice and consent of a majority of the elected members of the Council, shall appoint an accountant to be the Auditor of accounts of the Town of Selbyville. It shall be the duty of the Auditor to audit the accounts of the Town and all its officers whose duty involves the collection, custody and payment of moneys to the Town. The Auditor shall, on or before the expiration of ninety (90) days from the end of the fiscal year, annually make and deliver a detailed report of any and all accounts, records, and books by them

932 examined and audited. The Auditor, in the performance of his duties, shall have access to all records and
933 accounts of the offices of the Mayor and Council and is hereby authorized and empowered to employ such
934 clerks as in his or her judgment may be necessary in the proper performance of his duties.

935 Section 15. TAX ASSESSMENT.

936 15.1 In making such assessment, the rules and exemptions now applicable by law to the
937 making of the assessment for Sussex County of persons and property shall be applicable insofar as
938 consistent with the provisions of this Charter. The Town hereby adopts the assessment of Sussex
939 County for any or all property located within the corporate limits of the Town. The assessed
940 values established by Sussex County shall be conclusive for purposes of levying Town taxes, and
941 the Mayor and Council shall have no authority to hear appeals regarding same. As the Mayor and
942 Council elect to adopt the Sussex County Assessments, only this section and §15.5 shall have
943 effect; but the Mayor and Council will have authority to consider appeals concerning any additions
944 to tax bills under §15.5 at any regular or special meeting.

945 15.2 Annual Assessment. The Mayor and Council shall, prior to January 31 of each
946 year, secure the assessment of Sussex County of all real property and improvements located
947 thereon within the Town of Selbyville. All real estate shall be described with sufficient
948 particularity to be identified. Real estate shall be assessed to the owner or owners if he, she or
949 they be known. If the owner or owners of real estate cannot be found or ascertained, it shall be
950 assessed to "Owner Unknown." A mistake in the name of the owner or owners or a wrong name
951 or an assessment to "Owner Unknown," shall not affect the validity of the assessment of any
952 municipal tax or assessment based thereon; provided, however, the assessment shall specify the
953 last record owner or owners thereof as the same shall appear from the records in the Office of the
954 Recorder of Deeds, in and for Sussex County.

955 15.3 The Mayor and Council may also make a personal assessment of all male and
956 female citizens of the Town above the age of eighteen (18) years, whether an owner of real estate
957 or not; said personal assessment shall be determined by the Mayor and Council. Said personal
958 assessment or per capita tax shall be in addition to the assessment levied on real estate owned or
959 assessed by any person or persons whomsoever.

15.4 The Secretary-Treasurer, after receiving such annual assessment, shall deliver to the Mayor and Council a list containing the names of all persons assessed and the amount of assessment against each. He or she shall also deliver at such time as many copies of said list as the Town Council shall direct.

15.5 The Mayor and Council shall annually, prior to the posting of the assessment list, by resolution, provide for the Secretary-Treasurer a list of any and all charges, costs or other assessments owed to the Town, which list of charges incurred shall include, but not be limited to, the following: water and/or sewer use charges and bond sinking fund assessments, curb and gutter assessments, sidewalk assessments, weed and grass cutting bills, trash collection bills, past due water charges, past due tax bills and other fees and charges provided by this Charter. Said amount, when adopted and set forth by resolution of the Mayor and Council, shall be shown on the copies of the assessments posted pursuant to the provisions of this Charter.

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

15.7 Immediately upon receiving the annual assessment list, the Mayor and Council shall cause a full and complete copy of the same, containing the amount assessed to each taxable to be hung in a public place in the Town and there it shall remain for a period of at least ten (10) days for the information or an examination by all concerned. Appended thereto and also in five (5) or more public places in said Town shall be posted notices advertising to all concerned that, upon a certain day mentioned therein and not earlier than ten (10) days after the date of posting of the true and correct copy of the annual assessment list and notices, at the next regular meeting of the Mayor and Council, the Mayor and Council will hold a court of appeals at which time and place they shall hear appeals from the said annual assessment. The decision of the Mayor and Council sitting as the Board of Appeals shall be final and conclusive and said Mayor and Council shall revise and complete said assessment at this sitting. Neither any member of the Town Council or

the Mayor shall sit upon his or her own appeal but the same shall be heard and determined by the other Council members.

15.8 Pending determination of any appeal to Sussex County, the property owner may either (1) pay the tax imposed by any assessment and if on appeal the assessment is reduced, the property owner shall be entitled to a refund of the taxes which he or she has paid plus interest thereon at the rate of one percent (1%) per month for month for each month or fraction thereof from the date of payment or (2) the property owner may decline to pay the tax imposed by any assessment in which case, interest and penalties shall accrue at the rate established in this section for each month or fraction thereof that the taxes remain unpaid and delinquent.

15.9 Supplemental Assessment.

15.9.1 In addition to the annual assessment provided for in this Section of this Charter, the Mayor and Council may, at their option, prepare a quarterly supplemental assessment list for any of the following purposes.

15.9.1.1 Adding property which was not included on the last annual assessment;

15.9.1.2 Increasing the assessed value of property which was included in the last assessment.

15.9.1.3 Correcting errors on the prior annual assessment.

15.9.1.4 Revising or modifying any exemption from taxation applicable to property within the Town.

15.9.2 The supplemental assessment list may be prepared quarterly by the Mayor and Council and the first such supplemental assessment shall be certified by the Mayor and Council quarterly based on the current fiscal year.

15.9.3 On the date of certification of the supplemental assessment list by the Mayor and Council, each property owner shall be liable for the payment of real estate taxes equal to the assessed value of the property multiplied by the tax rate for the then current fiscal year applicable to the property reduced by twenty-five percent (25%) when the property is listed on the second supplemental assessment list, fifty percent (50%)

when the property is listed on the third supplemental assessment list and seventy-five percent (75%) when the property is listed on the fourth supplemental assessment list, and the amount of such tax, together with any interest, penalty and collection charge, shall be a lien for a period of ten (10) years from the date of certification of the supplemental assessment list by the Mayor and Council and such lien shall have preference and priority to all other liens created or suffered on real estate or upon leaseholds or upon improvements located on land under lease as prescribed in this Charter although such lien or liens be of a date prior to the time of the attaching of such lien for taxes.

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

15.9.5 In the collection of all taxes imposed by the supplemental assessment list there shall be no deduction nor abatement of the taxes, and there shall be added a penalty up to five (5%) per month for each month or fraction thereof that such taxes remain unpaid following the date that such taxes became delinquent.

15.9.6 All taxes imposed by the supplemental assessment list and paid later than thirty (30) days for each supplemental assessment in each year, shall be delinquent.

Section 16. LEVY OF ANNUAL TAXES.

16.1 At a meeting in February, after having revised and completed the assessment, the Mayor and Council shall determine, in their best judgment and knowledge, the total amount necessary to be raised by the Town to meet the fixed and anticipated expenses and obligations of the Town, including reasonable and appropriate reserves, for the then current fiscal year as set

1043 forth in the Town Budget for such year plus a reasonable amount to cover anticipated expenses
1044 and emergencies.

1045 16.2 The Town Council should then proceed to determine, in its sole discretion, from
1046 which sources of the authorized revenues of the Town the amount so determined by them shall be
1047 raised and, within the limits prescribed by this Charter with respect to any such source, the amount
1048 to be raised from each such source. They shall then proceed to determine, assess, fix and/or levy
1049 as follows:

1050 16.2.1 The rate of tax on real estate including improvements thereon per One
1051 Hundred Dollars (\$100.00) of the assessed value; and/or

1052 16.2.2 The amount of personal or per capita tax upon each citizen of the Town
1053 over the age of eighteen (18) years; and/or

1054 16.2.3 The rate of tax upon all poles, construction, erections, wires and
1055 appliances more particularly mentioned, or intended so to be in Section 24 of this Charter
1056 as amended; and/or

1057 16.2.4 The several license fees to be charged for carrying on or conducting of
1058 the several businesses, professions or occupations more particularly mentioned or
1059 intended so to be in Section 4 of this Charter, as amended; and/or

1060 16.2.5 The several rates to be charged for furnishing water service, sewer
1061 service, electric service, gas service, front footage assessment or other services; and/or

1062 16.2.6 The fees or rates to be charged in respect to any other authorized source
1063 of revenue sufficient in their judgment and estimation to realize the amount to be raised
1064 from each such source determined by them to be used as aforesaid; provided, however,
1065 that sources 16.2.4, 16.2.5, 16.2.6 aforementioned may be determined, fixed, assessed,
1066 levied and/or altered or changed upon other than a fiscal year basis and at any regular or
1067 special meeting of the Mayor and Council as they, in their proper discretion, shall
1068 determine.

1069 16.3 The Mayor and Council shall make, or cause to be made, a full, true and correct
1070 Annual Tax List showing the amount of tax levied against each taxable thereon from sources

1071 16.2.1, 16.2.2 and 16.2.3 above-mentioned. This list shall be known as the Annual Tax List of the
1072 Town of Selbyville. In addition to the information contained in the assessment list, it shall also
1073 contain information as to the rate of tax upon real estate for each One Hundred Dollars (\$100.00)
1074 of assessed valuation thereof.

1075 16.4 The Mayor and Council shall immediately proceed to collect the same as
1076 hereinafter provided.

1077 16.5 Real Estate Transfer Tax.

1078 16.5.1 The Mayor and Council, in addition to the powers now conferred, shall
1079 have the power and authority by ordinance or ordinances to levy, assess and collect or
1080 provide for the levying, assessment and collection of such taxes as shall be determined by
1081 the Mayor and Council to be paid by the transferor or transferee upon the transfer of real
1082 property or any interest in real property situate within the corporate limits the Town or in
1083 any territory outside the corporate limits of the Town but under the jurisdiction of the
1084 Town, regardless of where the instruments making the transfers are made, executed or
1085 delivered or where the actual settlements on such transfers occur; provided, however, that
1086 no tax levied under this section shall exceed one and one-half percent (1.5%) of the sales
1087 price (including the value of any assumed mortgage or mortgages) or the fair market
1088 value of the real property so transferred, and provided further that no tax shall be levied
1089 upon an organization exempted from the payment of as valorem real estate taxes.

1090 16.5.2 No ordinance or ordinances providing for a tax on the transfer of real
1091 property or any interest in real property authorized under this section shall become
1092 effective unless it receives an affirmative vote of two-thirds of all the members of the
1093 Council and the Mayor.

1094 16.5.3 If the taxing power authority granted under this section shall be
1095 exercised by way of a stamp affixed to a document presented for recording, the Recorder
1096 of Deeds, in and for Sussex County, shall not receive for record any documents subject to
1097 said tax unless such stamps are affixed thereto.

1098 16.5.4 The Mayor and Council may adopt an ordinance or ordinances to
1099 provide for the effective administration and regulation of any tax adopted pursuant to the
1100 provisions of this section.

1101 16.5.5 No tax levied under this section shall exceed the difference between any
1102 tax levied by the State of Delaware on the same property and one and one-half percent
1103 (1.5%).

1104 16.6 Nothing contained in this Charter shall be construed to affect or impair in any way
1105 the validity of any tax, fee, assessment or other charge lawfully levied, assessed or due the Town
1106 of Selbyville under the existing laws in reference to said Town and the same are hereby declared
1107 to be valid, binding and vested in the Town of Selbyville created hereby.

1108 16.7 The total amount of money to be raised by real property taxes shall in no year
1109 exceed three percent (3%) of the total appraised valuation of all taxable real estate (and
1110 improvements thereon) in the Town.

1111 Section 17. COLLECTION OF ANNUAL TAXES.

1112 17.1 All taxes so laid or imposed by the Town in such Annual Tax List shall be and
1113 constitute a lien upon all the real estate of the taxable for a period of ten (10) years against or upon
1114 whom such taxes are laid or imposed, of which such taxable was seized or possessed at any time
1115 after such taxes shall have been levied and imposed that is situate within the Town of Selbyville.
1116 Such lien shall have preference and priority to all other liens on such real estate, as aforesaid,
1117 created or suffered by the said taxable, although such lien or liens be of a time and date prior to the
1118 time of the attaching of such lien for taxes.

1119 17.2 In the collection of any charges due the Town for water rentals, sewer service
1120 charges, electric bills, gas bills, license fees, tapping fees, front footage assessments, charges
1121 growing out of the abatement of nuisances, laying out and repairing paving, graveling, curbing,
1122 grasscutting, or any of the charges permitted by this Charter, any amount due the Town from a
1123 contract, such charges shall become a first lien against all real estate of the delinquent property
1124 owners and/or taxpayers situate within the Town and such charges shall have preference and
1125 priority for a period of ten (10) years from the date the charge became due and owing to all other

liens on real estate created or suffered by the taxable and property owner, although such other lien or liens be of a date prior to the time for the attaching of such liens for such charges.

17.3 The remedies available to the Town for the collection of such charges shall be the same as those set forth in this Charter for the collection of delinquent taxes.

17.4 All taxes, when and as collected, shall be paid to the Town of Selbyville, and all taxes shall be due and payable at and from the time of the delivery of the Annual Tax List to the Town Collector.

17.5 All taxes and fees shall be payable at the Town Office during the regular business hours of that Office.

17.6 On all taxes and fees paid after thirty (30) days following the delivery of the duplicate Annual Tax List to the Mayor and Council there shall be added a penalty of up to Five Percent (5%) for each month or fraction thereof such taxes shall remain unpaid and said penalty shall be collected in the same manner as the original amount of the tax. The Town Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid thirty (30) days after due date shall be considered delinquent. In effecting a collection of delinquent tax, the Town Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and fee and any penalty imposed thereon.

17.7 In addition to all other remedies, methods and authorities for the collection of taxes, the Mayor and Council may use the monition method for the collection of such taxes as established for Sussex County and authority is hereby established for them to do so.

17.8 The Mayor and Council, when any tax has become delinquent, may institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Sussex County, or in the Superior Court of the State of Delaware, in and for Sussex County, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas, or in the Superior Court, as the case may be.

17.9 However, should the Mayor and Council so elect, they are empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent

taxpayer alienated subsequent to the levy of the tax by the following procedure at the direction of the Mayor and Council:

17.9.1 The Mayor and Council shall present in the name of the Town of Selbyville to the Superior Court of the State of Delaware in and for Sussex County, a petition in which shall be stated:

17.9.1.1 The name of the taxable;

17.9.1.2 The year for which the tax was levied;

17.9.1.3 The rate of tax;

17.9.1.4 The total amount due;

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

17.9.1.6 A reasonable, precise description of the lands and tenements proposed to be sold;

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

17.9.1.8 That it has been found impractical to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the Secretary-Treasurer shall be verified before a Notary Public.

17.9.2 At least ten (10) days prior to the filing of any such petition as described herein, the Secretary-Treasurer shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at his last known address, requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties, collection charges, and costs then due thereon, together with a notice to the delinquent taxpayer that he or she shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The Secretary-Treasurer shall exhibit the return registry receipt to the Court by filing the same with the petition; provided, however, that if the taxpayer

cannot be found, it shall be sufficient for the Secretary-Treasurer to file with said petition the evidence that such statement has been mailed in accordance with this Subsection and has been returned.

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

17.9.4 Any sale of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the Town of Selbyville, one of said public places shall be the Town Office and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the day fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

17.9.5 Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Sussex County, at the next term thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the Mayor and Council shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

17.9.6 No sale shall be approved by the Superior Court if the owner be ready at court to pay the taxes, penalty, collection fees and costs. No deed shall be made until the

1210 expiration of one (1) year from the date of the sale within which time the owner, his or
1211 her heirs, executors, or assigns, shall have the power to redeem the lands on payment to
1212 the purchaser, his or her personal representatives or assigns, the costs, the amount of the
1213 purchase price, and twenty percent (20%) interest thereon and the expense of having the
1214 deed prepared.

1215 17.9.7 After satisfying the tax due and the costs and expense of sale from the
1216 proceeds of sale, the amount remaining shall be paid to the owner of the land. Upon the
1217 refusal of the said owner to accept said residue, or if the owner is unknown or cannot be
1218 found, the amount remaining shall be deposited in some bank in Sussex County, either to
1219 the credit of the owner or in a manner in which the fund may be identified.

1220 17.9.8 In the sale of lands for the payment of delinquent taxes, the following
1221 costs shall be allowed to be deducted from the proceeds of the sale or chargeable against
1222 the owner, as the case may be:

1223 17.9.8.1 To the Prothonotary for filing and recording the petition, the
1224 amount set by rules of Superior Court;

1225 17.9.8.2 For filing and recording the return of sale, the amount set by
1226 the Recorder of Deeds in and for Sussex County;

1227 17.9.8.3 To the Office of the Sheriff or other Sussex County office,
1228 amount set by such office.

1229 17.9.8.4 To the Town, an amount as established by Town Council. In
1230 addition, the costs of printing handbills, the publication of the advertisement of
1231 sale in a newspaper, and the auctioneer's fee shall be chargeable as costs. The
1232 costs of the deed shall not be chargeable as costs, but shall be paid by the
1233 purchaser of the property of the delinquent taxpayer. The total of any Delaware
1234 transfer tax shall be paid by the purchaser of said lands at the tax sale.

1235 17.9.9 If the owner of any lands and tenements against which a tax shall be
1236 levied and assessed shall be unknown, this fact shall be stated in the advertisement of
1237 sale.

1238 17.9.10 If any person is assessed for several parcels of land and tenements in
1239 the same assessment in the Town of Selbyville, the total of said taxes may be collected
1240 from the sale of any part or portion of said lands and tenements, provided that the land
1241 alienated by the delinquent taxpayer shall not be sold until other property of the taxpayer
1242 shall have been disposed of and there still remains a delinquency.

1243 17.9.11 In the event of death, resignation or removal from office of the
1244 designated person of the Town of Selbyville before the proceedings for the sale of lands
1245 shall have been completed, his or her successor in office shall succeed to all of his or her
1246 powers, rights and duties in respect to said sale. In the event of the death of the purchaser
1247 of said sale prior to his or her receiving a deed for the property purchased thereat, the
1248 person having right under him by consent, devise, assignment or otherwise, may refer to
1249 the Superior Court of the State of Delaware, in and for Sussex County, a petition
1250 representing the facts and praying for an order authorizing and requiring the Mayor and
1251 Council to execute and acknowledge a deed conveying to the petitioner the premises so
1252 sold or a just portion thereof; and thereupon the court may make such order touching the
1253 conveyance of the premises as shall be according to justice and equity.

1254 17.9.12 The Mayor and Council shall have the same right to require the aid or
1255 assistance of any person or persons in the performance of their duty of sale which the
1256 Sheriff of Sussex County now has by law or may hereafter have.

1257 17.10 Fees and costs to be taxed in all proceedings pursuant to the use of the monition
1258 method, where not otherwise provided for, shall be as provided by law.

1259 Section 18. TOWN BUDGET.

1260 18.1 The fiscal year for The Town of Selbyville shall be as determined by Resolution of
1261 the Town Council.

1262 18.2 Annually each year and not later than sixty (60) days prior to and not later than
1263 thirty (30) days after the beginning of the next fiscal year, the Town Administrator or, if none,
1264 other designee of the Mayor and Council, shall prepare a rough draft of the Town Budget. From
1265 this rough draft, the Mayor and Council shall, not later than the first scheduled meeting of the new

fiscal year following the presentation of the rough draft prepared of the Town Budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year, adopt the budget.

18.3 The budget shall contain the following information:

18.3.1 An estimate showing the expenses for conducting the affairs of the Town for the ensuing fiscal year;

18.3.2 The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof;

18.3.3 The amount of the debt of the Town, together with the schedule of maturities of bond issues;

18.3.4 An itemized statement of all other estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;

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

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

Section 19. NUISANCES. The Mayor and Council shall have power and authority to enact or adopt resolutions to define, prevent, abate and remove all obstructions, nuisances and unsanitary conditions at any time existing or deemed to be contemplated by any property owner or tenant or any property owner thereof, whether in the street, square, lane or alleys, or on the sidewalks or any other public or private place within the limits of said Town either on its own inspection or upon written complaint of any citizen of the Town stating the character and location of the obstruction, nuisances or unsanitary conditions and signed by the citizen making the complaint.

Section 20. POWER TO BORROW MONEY AND ISSUE BONDS.

20.1 Short-Term Borrowing. To anticipate revenue by borrowing upon the faith and credit to the Mayor and Council of the Town of Selbyville, the sum or sums of, not exceeding Five

1294 Hundred Thousand Dollars (\$500,000.00) in any one fiscal year, when, in the opinion of the
1295 majority of the said Mayor and Council, the needs of the Town demand it. The Mayor and
1296 Council may secure said sum or sums of money so borrowed by promissory notes of the Town of
1297 Selbyville, duly executed by the Mayor and Council of the Town and attested by the Secretary-
1298 Treasurer, either with or without the corporate seal of the Town of Selbyville affixed as is
1299 requested by the bank or person advancing the money on said notes, and neither the Mayor nor
1300 any Council member shall be personally liable for the payment of such notes because it is signed
1301 by them as Officers of the Town of Selbyville, and is authorized by the resolution of the Mayor
1302 and Council; provided, however, any sum of money borrowed on the faith and credit of the Town
1303 of Selbyville, as aforesaid, in any fiscal year, shall be paid out of the general funds of the Town, at
1304 the minimum rate of Ten (10) per centum per fiscal year and shall be completely paid at the end of
1305 Ten (10) fiscal years following the first fiscal year which said money was borrowed with interest
1306 thereon and the principal and interest shall be exempt from taxation by the State of Delaware and
1307 any political subdivision thereof.

1308 20.2 Long-Term Borrowings; Voter Approval Required. In addition to other borrowing
1309 powers granted to the Town under this Charter or by special act, the Mayor and Council shall have
1310 authority to borrow money for any proper municipal purpose through the issuance of bonds or
1311 certificates of indebtedness to secure the repayment thereof, on the full faith and credit of the
1312 Town, or such other security or securities as the Mayor and Council shall elect, for the payment of
1313 principal thereof and interest due thereon.

1314 20.2.1 Proper Municipal Purpose. By way of illustration and not in limitation,
1315 "any proper municipal purpose" includes, but is not limited to:

1316 20.2.1.1 refunding any or all outstanding bonds or other indebtedness
1317 of the Town at the maturity thereof or in accordance with any callable feature of
1318 provision contained therein.

1319 20.2.1.2 erecting, extending, enlarging, maintaining, or repairing any
1320 plant, building, machinery, or equipment for the manufacture, supplying, or
1321 distribution of gas, water, electricity, sewerage, or drainage system. or any of

1322 them, and the condemning or purchasing of any lands, easements, and right-of-
1323 ways which may be required therefore.

1324 20.2.1.3 constructing, paving, laying out, widening, extending,
1325 repairing and maintaining streets, lanes, alleys and ways, and the paving,
1326 constructing, laying out, widening, extending, repairing, and maintaining of
1327 curbing and gutters, including storm sewers, along the same, and the
1328 condemning or purchasing of lands, easements or rights-of-ways which may be
1329 required therefor.

1330 20.2.1.4 constructing, paving, laying out, widening, extending,
1331 repairing and maintaining boardwalks, piers, jetties, bulkheads, sidewalks, cross
1332 walks, or embankments, or any of them, and the condemning or purchasing of
1333 any lands, easements, or rights of way which may be required therefor.

1334 20.2.1.5 defraying the costs to the Town of any other municipal
1335 improvement provided for or authorized or implied by the provisions of this
1336 Charter.

1337 20.2.1.6 paying all expenses deemed necessary by the Mayor and
1338 Council of the issuance of said bonds or certificates of indebtedness, including
1339 bond discount and legal expenses of bond counsel.

1340 20.2.2 Exempt From Taxation. All bonds or other kinds or forms of certificate
1341 or certificates of indebtedness issued by the Town pursuant to the provisions of this
1342 section, and the interest thereon, shall be exempt from all state, county or municipal
1343 taxes.

1344 20.2.3 Limit of Aggregate Long-Term Indebtedness. In no event shall the
1345 indebtedness of the Town of Selbyville, authorized by this Section, at any one time
1346 exceed, in the aggregate, fifty percent (50%) of appraised value of all real property within
1347 the corporate limits of the Town of Selbyville and subject to assessment for the purpose
1348 of levying the annual Town taxes as provided in this Charter, unless authorized in a
1349 greater amount by the General Assembly of the State of Delaware.

1350 20.2.4 Procedure: Notice, Hearing, Election. In order to proceed under the
1351 power granted in this section, the Mayor and Council shall authorize such borrowing in
1352 the following manner:

1353 20.2.4.1 The Mayor and Council by resolution shall give notice to the
1354 resident and property owners of the Town that the Town Council proposes to
1355 borrow a sum of money, not to exceed a stated amount, for a stated municipal
1356 purpose. The resolution shall state the amount of money desired to be borrowed
1357 (which may be stated as a "not to exceed" amount), the purpose for which it is
1358 desired, the manner of securing same, and such other facts relating to the loan
1359 which are deemed pertinent by the Mayor and Council and in their possession at
1360 the time of the passage of the Resolution; and they shall fix a time, date and
1361 place for a hearing on the said Resolution.

1362 20.2.4.2 (1) Notice of the time, date, and place of the hearing on the
1363 resolution authorizing said loan shall be published in two (2) newspapers of
1364 general circulation in the Town not less than fifteen (15) days, nor more than
1365 sixty (60) days, prior to the date set for the public hearing. Such notice shall be
1366 in bold print or bordered in black so as to call attention thereto. In addition to
1367 the time, date, and place of the public hearing such notices shall contain the
1368 same information as required under §20.2.4.1 above.

1369 (2) In addition to publication as herein provided, the Mayor
1370 and Council shall, not less than fifteen (15) days nor more than sixty (60) days
1371 prior to the date set for the hearing, cause a public notice containing the
1372 information required above to be posted in at least five public places in the
1373 Town. In the event the publications and/or postings do not appear on the same
1374 date, the date of the last publication or posting shall control.

1375 20.2.4.3 If, at any time following the public hearing, the Mayor and
1376 Council determine to proceed with the proposed borrowing, it shall pass a
1377 second resolution ordering a special election to be held, upon not less than

1378 fifteen (15) nor more than sixty (60) days public notice, for the purposes of
1379 voting for or against the proposed borrowing. The passage of the second
1380 Resolution shall ipso facto be considered a determination by the Mayor and
1381 Council to proceed with the matter in issue; provided however, that the Mayor
1382 and Council may, at any time subsequent thereto, and based upon a significant
1383 change in the relevant circumstances, act by resolution to cancel the Special
1384 Election and abandon the proposed borrowing.

1385 20.2.4.4 (1) The notice of the time and place of holding the said
1386 Special Election shall be printed in two (2) newspapers of general circulation in
1387 the Town, not less than fifteen (15) days not more than sixty (60) days prior to
1388 the date set for the Special Election. In addition to the time, date and place of
1389 the election, such notice shall contain the same information as required under
1390 §20.2.4.1. Such notice shall be in bold print or bordered in black so as to call
1391 attention thereto.

1392 (2) In addition to such publication as herein provided, the
1393 Mayor and Council shall, not less than fifteen (15) days nor more than sixty (60)
1394 days before the date set for the election, cause public notice, containing the
1395 information set out in Subsection 20.2.4.4(1) above (using date of "posting" for
1396 date of "publication"), to be posted in at least five (5) public places in the Town,
1397 In the event the publications and/or postings do not appear on the same date, the
1398 date of the last publication or posting shall control.

1399 20.2.4.5 At such special election, any person who is entitled to vote in
1400 the annual Town election if it were held on that day, shall be entitled to vote.
1401 (For purposes of this section, "entitled to vote" shall include "registered to vote"
1402 if voter registration is required for the annual Town election. Voter registration
1403 for such special election shall close at 4:00 p.m. on the last business day
1404 preceding said special election.)

Any Special Election held pursuant to the provisions of this section shall be conducted by voting machines, electronic voting systems, or printed ballots as permitted by law which shall have the following designation:

[] For the proposed borrowing

[] Against the proposed borrowing

The voter shall be instructed to mark the box for which he casts his vote. The Mayor, by and with the advice and consent of the majority of the Council, shall appoint three (3) persons, who may or may not be qualified voters in the Town, to act as a Board of Special Election. The polling places shall be opened for a minimum of six (6) hours as specified by resolution of the Mayor and Council. Persons in the polling place at the time appointed for closing of the polls shall be entitled to vote.

20.2.4.6 The Board of Special Election shall be the sole and final judges of the legality of the votes offered at such special election. It shall keep a true and accurate list of all persons voting. It shall count the votes for and against the proposed borrowing and shall announce the result thereof. The Board of Special Election shall make a certificate under their hands of the number of void votes and shall deliver the same to the Mayor and Council which said certificate shall be retained by the Mayor and Council with the other papers of the Town.

20.2.4.7 If a majority of the votes cast at such special election shall be in favor of such borrowing, the Mayor and Council shall proceed with the issuance of the said bonds or certificates of indebtedness; provided, however, that the Mayor and Council may, at any time prior to entering into a binding agreement for the public or private sale of such bond(s) or evidence(s) of indebtedness, abandon the proposed borrowing.

20.2.5 Form of Bonds. The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the interest rate,

the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination, the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the Mayor and Council after said Special Election.

20.2.6 Bond Anticipatory Notes. In anticipation of the issuance of said bonds at any time after a special election resulting in a vote in favor of the bond issue, the Mayor and Council may issue and sell bond anticipatory notes of the Town at either public or private sale for not less than par and accrued interest. Said notes may be renewed from time to time by the issuance of and sale of new notes. Said notes shall bear interest at a rate determined by the Mayor and Council to be fair and reasonable. All such notes shall mature and be paid not later than two (2) years from the date of issuance. The total amount of said notes outstanding at any one time shall not exceed the amount for which a special election resulted in a favorable vote. Said notes shall be redeemed at par and accrued interest prior to their maturity if the Mayor and Council shall have reserved the right to do so by an express provision in the note or notes. The principal and any interest due on said notes may be paid from the proceeds of the sale of the bonds authorized by this section. Both interest on and principal of any bond anticipatory notes shall not be subject to taxation by the State of Delaware or any political subdivision thereof.

20.2.7 Public or Private Sale. The bonds may be sold at either public or private sale. If the bonds shall be offered for public sale, they shall be sold to the best and most responsible bidder(s) therefore after advertisement in a manner to be prescribed by the Mayor and Council for at least one (1) month before offering the same for sale.

20.2.8 Provision for Payment: Special Tax, Sinking Fund. The Mayor and Council shall provide for the payment of interest on the principal of the said bonds or certificates of indebtedness at the maturity thereof. The said Mayor and Council is authorized and empowered, at its discretion, to levy a special tax upon all the real estate within the Town or only upon such real estate as is directly benefitted by the improvements paid for by the proceeds of such borrowing to pay interest on said bonds

and/or principal; and at their discretion, to establish a sinking fund adequate to the redemption, at or before maturity, of all bonds or certificates of indebtedness which may be issued under the provisions of this Section; provided, that the amount to be raised under any special tax for this purpose shall not in any one year exceed a sum equal to five per centum (5%) of the total bonded indebtedness. The special tax provided for in this Section 20.2.8 shall be collected from the owners of real estate in the same manner as the other taxes levied by the said Mayor and Council are collected. Said Mayor and Council may also appropriate and set aside for such sinking fund so much of the general funds of said Town as they may from time to time think advisable. The sinking fund provided for by this Section 20.2.8 shall be deposited in federally insured deposits in a bank, trust company, or other banking institution until such time as it may be needed for the redemption of the bonds.

20.2.9 Full Faith and Credit Unless Otherwise Stated. Unless any such bond(s) or certificate(s) of indebtedness shall provide otherwise, the full faith and credit of the Town of Selbyville shall be deemed to be pledged for the due payment of the bonds and the interest thereon issued under the provisions of this section when the same shall have been properly executed and delivered for value notwithstanding any other provision of this Charter.

20.2.10 Statute of Limitations, 60 days. No action contesting any proceedings conducted, or action taken, by the Mayor and Council hereunder regarding the authorization of any bonds or certificates of indebtedness issued under this Section 21 shall be brought after the expiration of sixty (60) days from the publication of a notice in at least two (2) newspapers, one of which shall be of general circulation in the State of Delaware, which notice shall announce the following information:

20.2.10.1 That the Mayor and Council has determined to borrow a certain sum of money and to issue bonds or certificates of indebtedness therefor.

1487 20.2.10.2 That the proposal has been approved by a majority of those
1488 casting votes at a special election in the Town called for the purpose of voting
1489 for or against the borrowing.

1490 20.2.10.3 The amount of money to be borrowed.

1491 20.2.10.4 The purpose for which it is to be borrowed.

1492 20.2.10.5 That any person desiring to challenge the authorization of
1493 such bond(s) or certificate(s) of indebtedness must bring his or her action within
1494 sixty (60) days from the date of publication of such notice or forever be barred
1495 from doing so.

1496 20.2.10.6 Such notice shall be in bold print or bordered in black in
1497 such manner as to call attention thereto. In addition to publication as herein
1498 provided, the Mayor and Council shall cause a public notice, containing the
1499 information set out in Subsection 20.2.4.1 through 20.2.4.5 above (using date of
1500 "posting" for date of "publication") to be posted in at least 5 public places in the
1501 Town. In the event the publications and/or postings do not appear on the same
1502 date, the date of the last publication or posting shall control.

1503 Section 21. STREETS.

1504 21.1 The Mayor and Council shall have the power and authority to lay out, locate and
1505 open new streets or to widen and alter existing streets or parts thereof and to vacate or abandon
1506 streets or parts thereof, whenever the Mayor and Council shall deem it for the best interest of the
1507 Town.

1508 21.2 The procedure to be used for any of those things heretofore listed in this Section
1509 shall be as follows:

1510 21.2.1 Property Owner Request.

1511 21.2.1.1 Whenever five (5) or more property owners in a portion of the
1512 Town directly affected or abutting on the proposed street to be opened, laid out,
1513 changed, altered, widened, vacated or closed shall by written petition, with each
1514 signature duly acknowledged, request the Mayor and Council to lay out, locate,

or open a new street or to widen or alter any existing street or any part thereof or to vacate or abandon a street, or any part thereof, the Mayor shall appoint a committee composed of not less than three (3) of the members of the Council to investigate the possibility of changing the structure of said streets in the Town. The petition presented to the Mayor and Council by the property owners shall include a description of the property through which the proposed street shall be laid out or description of the street on which any of the other actions heretofore described shall take place and the reasons why the change in the structure of the streets of the Town should be undertaken.

21.2.1.2 Not later than ninety (90) days following its appointment, the committee shall submit a report concerning its findings to the Mayor and the Council. The report shall contain the advantages and disadvantages to the Town caused by the changes of the street structure and shall contain the conclusion of said committee either recommending or disapproving the change of said street structure. If the report of the committee appointed by the Mayor recommends changing the existing street structure of the Town of Selbyville, the Mayor and Council, by Resolution, passed by a majority of the members of the Mayor and Council concurring therein, shall propose to the property owners and citizens of the Town that the Mayor and Council proposes to change the street structure by opening a new street or by doing any of those things hereinbefore described to the existing street structure of the Town. If the report of the committee appointed by the Mayor is not in favor of changing the existing street structure of the Town of Selbyville, the Resolution proposing the change in the street structure to the property owners and citizens of the Town of Selbyville shall be passed by a majority of three-fourths (3/4) of the members of the Mayor and Council. The Resolution shall contain a description of the proposed change and shall affix a time and place for a public hearing on the matter of changing the street structure. The Resolution adopted by the Mayor and Council shall be

printed in a newspaper having a general circulation in the Town of Selbyville, or, in the discretion of the Mayor and Council, the Resolution shall be posted in five (5) public places in the Town for at least one (1) week before the time set for the public hearing. The notice shall be published at least one (1) week prior to the date set for the said public hearing. The Resolution shall also state the hour and place where and when the Mayor and Council shall sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of property by the proposed change in the existing street structure of the Town.

21.2.2 Initiation by Mayor and Council.

21.2.2.1 The Mayor and Council, by a majority vote of the members thereof, may, by resolution, propose that a committee composed of not less than three (3) of its members be appointed by the Mayor to investigate the possibility of changing the street structure of the Town.

21.2.2.2 Whenever the Mayor and Council shall have determined to locate or lay out or widen any street, lane or alley and shall have affixed compensation therefor, it shall be the duty of the Mayor and Council immediately after the survey and location of said street, lane or alley, to notify by certified mail with return receipt requested and postage prepaid the owner or owners of the real estate through or over whom such street, lane or alley may run of their determination to open or widen the same and to furnish a general description or location thereof; also the amount of compensation or damages allowed to reach such property owner, and if such owner be not a resident of the Town, to notify the holder or tenant of said real estate and the owner of such property if his address be known; that there be no holder or tenant resident in said Town and the address of the owner be unknown or if there is a holder or tenant and the address of the owner is unknown, the said notice may be affixed to any part of the premises.

21.2.3 If the owner be dissatisfied with the amount of compensation or damages allowed by the Town, as aforesaid, said property owner may, within ten (10) days after such notice, as aforesaid, was posted or mailed, appeal from written notice of assessment or compensation or damages by serving written notice by certified mail with return receipt requested and postage prepaid, on the Mayor to the effect that he or she is dissatisfied with the amount of such compensation or damages, and that it is his or her intention to make written application to one of the Judges of the Superior Court of the State of Delaware in and for Sussex County, for the appointment of a commission to hear and determine the matter in controversy; and in order to prosecute such appeal, such owner shall, within fifteen (15) days after serving said notice upon the Mayor as aforesaid, make written application to said Judge of the Superior Court of the State of Delaware, in and for Sussex County, for the appointment of such a commission; and thereupon the said Judge shall issue and appoint a commission directed to five (5) freeholders of said county, three (3) of whom shall be residents of the Town of Selbyville, and two (2) of whom shall be non-residents of said Town, requiring them to assess the damages which the owner of real estate through or over which the said street, lane or alley shall pass or who shall have suffered damage because of any other action taken by the Town pursuant to the provisions hereof and who shall have notified the said Mayor and Council of their intention to appeal may incur by reason thereof and to make a return of their proceeding to the said Judge at the time therein appointed.

21.2.4 The freeholders named in such commission, being first duly sworn or affirmed, shall view the premises and may, or a majority of them, shall assess the damages, as aforesaid, and shall make return in writing of their proceedings to the said Judge who shall deliver and return to the Town their return which shall be final and conclusive. The said Judge shall have the power to fill any vacancy in the commission. The amount of damages being so ascertained, the Town may pay or tender the same to the person or persons entitled thereto within thirty (30) days after the same shall be finally ascertained or if the person or persons so entitled reside out of or are absent from

the Town during the said period of thirty (30) days, then the same shall be deposited to his or her credit in any bank or trust company with offices in Sussex County within said time and thereupon the said property or lands may be taken or occupied for the use as aforesaid.

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

Section 22. CURBING AND PAVING.

22.1 The Mayor and Council shall have the power to cause to be paved or repaved the sidewalks of said Town or any part or portion thereof, to cause to be repaired or relaid existing curbs or gutters, or both, or any part or portion thereof or to cause to be laid, installed or constructed new curbs or gutters, or both, or any part or portion thereof with such material or materials and of such width or size and subject to such specifications as the Mayor and Council shall determine.

22.2 Before the exercise of said powers in any particular instance, the Mayor and Council shall adopt an ordinance or resolution stating in effect that on a named day and at a named hour and place the Mayor and Council will meet to consider the question of paving or repaving the sidewalks, repairing existing curbs or gutters, or both, or alternating existing curbs and gutters, or both, with any specified material or materials or to construct new curbs or gutters, or both.

1627 22.3 The ordinance or resolution shall specify the streets and the names and addresses of
1628 the owners of property in front of or adjacent to whose property the work shall be done.

1629 22.4 The said ordinance or resolution shall be published at least one (1) week prior to the
1630 meeting of the Mayor and Council in at least one (1) issue of a newspaper having a general
1631 circulation in the Town of Selbyville.

1632 22.5 The Mayor and Council shall hold a meeting in said Town pursuant to the
1633 provisions of said ordinance or resolution and at such meeting shall hear the owners of property
1634 and other residents of the Town appearing on the question referred to in the said ordinance or
1635 resolution.

1636 22.6 Following the hearing, the Mayor and Council, either at said meeting or at a
1637 subsequent meeting, shall decide whether to proceed with the improvements referred to in said
1638 ordinance or resolution or any part thereof, and if it shall decide to proceed, it shall determine
1639 whether the whole or some specified portion of the cost of the improvements, repairs or
1640 replacements shall be assessed to the owner or owners of the property in front of or adjacent to
1641 whose property the said improvements, repairs or replacements are being constructed or installed.
1642 If the Mayor and Council conclude that the whole or a specified portion of said cost shall be
1643 borne by said owners, the said owners shall be compelled to pay the whole or the specified portion
1644 of the costs of the said work, the amount to be paid to be determined by the linear frontage of the
1645 parcel in front of which the sidewalk is to be paved or repaved or of the gutter to be laid, repaired
1646 or replaced or the curb to be repaired, constructed or installed or any or all of said improvements,
1647 as the case may be.

1648 22.7 When the said paving or repaving, curbing or recurbing, guttering or reguttering or
1649 any or all of them shall have been completed and the costs thereof ascertained, the Mayor and
1650 Council shall ascertain the amount that the owner of each parcel of property shall pay and shall
1651 give written notice thereof to such owner, or one (1) of the co-owners if there be more than one (1)
1652 owner, by mailing the same to his last known address by first class mail with postage prepaid. If
1653 any owner shall fail to pay the specified amount within thirty (30) days after the mailing of such
1654 notice, the amount, together with costs and interest, may be collected by the Town in the same

manner and under the same terms and conditions as are provided for the collection of delinquent taxes.

22.8 Any notice sent to one (1) co-owner shall be notice to all owners, and in a case if no owners reside within the corporate limits of the Town of Selbyville, notice served as set forth herein or posted upon the premises shall be sufficient.

22.9 Provisions contained herein shall apply to any ordinance or resolution enacted or adopted by the Mayor and Council in respect to any pavement, sidewalk, gutter or curb heretofore made or done which the said Mayor and Council may deem to need repair or replacement.

Section 23. INDEMNIFICATION.

23.1 Indemnification; Defense To Be Provided. The Town of Selbyville shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by the appropriate insurance, any person who is a party to or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigate (other than an action by or in the right of the Town of Selbyville itself), by reason of the fact that he or she is or was a Town Council member, Mayor or other duly elected or appointed Town official of the Town of Selbyville or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such actions, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Town of Selbyville and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

1682 23.2 Monetary Settlement To Be Approved. In the event of a monetary settlement, the
1683 Mayor and Council shall first approve the amount and terms of the settlement before the right to
1684 indemnification shall vest.

1685 23.3 Determination of Town Council. Indemnification, as provided in this chapter, shall
1686 be made by the Mayor and Council only as authorized in the specific case upon a determination
1687 that indemnification of the Town Council, Mayor and/or town officer is proper in the
1688 circumstances because he or she met the applicable standards of conduct set forth above. Such
1689 determination shall be made:

1690 23.3.1 By a majority vote of a quorum of the Mayor and Council consisting of
1691 the Mayor and the Council members who were not parties to such action, suit or
1692 proceedings; or

1693 23.3.2 If such a quorum is not obtainable, by independent legal counsel in a
1694 written option.

1695 Section 24. ACTIONS OR SUITS. No action, suit or proceeding shall be brought or maintained
1696 against the Town of Selbyville for damages either compensatory or punitive on account of any physical
1697 injury or injuries, death or injury to property by reason of the negligence, simple, gross, or willful or
1698 wanton conduct, of the said Town of Selbyville, or any of its departments, officers, agents, servants or
1699 employees unless the person by or on behalf of whom such claim or demand is asserted, within one (1) year
1700 from the happening of said injury or the suffering of such damages shall notify the Town of Selbyville in
1701 writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such
1702 notice shall be directed to the Mayor of the Town of Selbyville by certified mail with return receipt
1703 requested and postage prepaid.

1704 Section 25. COMPENDIUM. It shall be the duty of the Mayor and Council, at reasonable time or
1705 times, to compile the ordinances, current regulations, orders and rules of the Town of Selbyville. The
1706 Mayor and Council shall have a reasonable number of copies printed for the use of the officials of the
1707 Town and for public information. From time to time, upon the enactment of new ordinances, current rules
1708 and regulations, or upon the enactment of amendments to the same, the Mayor and Council shall enroll the
1709 same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish

the Mayor of the Town of Selbyville copies thereof as they are enacted and therefrom may cause supplements to be compiled and printed to any compendium thereof heretofore printed as above provided.

Section 26. REVIVAL OF POWERS AND VALIDATING SECTION.

26.1 All powers conferred upon or vested in The Mayor and Council of the Town of Selbyville by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the Town of Selbyville and/or the Mayor and Council of the Town of Selbyville precisely as if each of said powers was expressly set forth in this Charter.

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

26.3 All of the acts and doings of The Mayor and Council of the Town of Selbyville or of any official of the Town of Selbyville which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of The Mayor and Council of the Town of Selbyville or under any provision of any prior Charter of the Town of Selbyville, prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

26.4 All taxes, assessments, license fees, penalties, fines, and forfeitures due The Mayor and Council of the Town of Selbyville shall be due the Town of Selbyville and all debts due from The Mayor and Council of the Town of Selbyville shall remain unimpaired until paid by the Town of Selbyville.

26.5 All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by The Mayor and Council of the Town of Selbyville.

26.6 The bonds given by or on account of any official of The Mayor and Council of the Town of Selbyville shall not be impaired or affected by the provisions of this Charter.

1738 26.7 All acts or parts of acts inconsistent with or in conflict with the provisions of this
1739 Charter be and the same are hereby repealed to the extent of any such inconsistency.
1740 26.8 If any part of this Charter shall be held to be unconstitutional or invalid by a court
1741 of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions
1742 of this Charter.
1743 26.9 This Charter shall be taken as and deemed to be a Public Act of the State of
1744 Delaware.

SYNOPSIS

This is an act to reincorporate the Town of Selbyville to update it from the original Charter enacted in 1931, incorporating numerous amendments, deleting provisions that have become outdated and adding and clarifying sections, a summary of which follows:

Section 1 sets out the general power of the Town of Selbyville.

Section 2 sets the territorial limits of the Town in reference to a plot of record.

Section 3 establishes the structure of government to continue as a Town Council of four members and a Mayor who votes in case of tie; sets the qualifications for office and a provision for filling vacancies.

Section 4, Enumeration of Powers, is a lengthy list of typical municipal authority including the power to establish compensation for the Mayor, Council members, officers and employees; to grant franchises; to purchase and/or condemnation of property; the power to tax; to establish impact fees; to define, prevent and abate nuisances; to establish a pension plan or health and welfare plan for employees; to borrow money; to enforce ordinances with fine of up to \$1,000; and provides authority for indemnification from the person or entity violating any governmental law or regulation which results in a fine imposed on the Town.

Section 5 provides for annexation procedures including annexation agreements.

Section 6 establishes the procedures for municipal elections, continuing the election date of the first Saturday in March.

Section 7 establishes an annual meeting, regular meetings and officers.

Section 8 establishes provisions for contracting for the Town requiring bidding for aggregate amounts more than \$100,000.

Section 9 establishes the duties of the Mayor and Vice Mayor as President of Council.

Section 10 establishes the duties of the Secretary-Treasurer and an Assistant Secretary-Treasurer.

Section 11 provides authority to establish the office of Town Administrator.

Section 12 continues the position of Town Solicitor.

Section 13 provides the authority to establish a police force and provides for enforcement within one mile beyond the boundaries of the Town.

Section 14 provides for an annual audit.

Section 15 provides for adoption of the Sussex County assessments, provides for the assessment procedure and provides for a supplemental assessment procedure.

Section 16 provides for the levying of annual taxes, including provision for real estate transfer tax.

Section 17 provides for the collection of annual taxes including use of the monition method.

Section 18 provides for a Town budget to be prepared.

Section 19 provides the authority to adopt resolutions to define, prevent, abate and remove nuisances and provide for inspection.

Section 20 provides for the power to borrow money both short term and long term and to issue bonds. The aggregate amount and debt is to be a maximum of fifty percent (50%) of appraised value of all real property; notice of bonding procedures is a minimum fifteen (15) days published and posted. Maximum short term debt continues at \$500,000.

Section 21 provides for a procedure for laying out or vacating streets or parts of streets within the Town.

Section 22 provides a procedure for curbing and paving of areas of the Town.

Section 23 provides for indemnification.

Section 24 asserts a one year limitation on actions or suits against the Town of Selbyville.

Section 25 is a compendium.

Section 26 is a revival of powers and validating section of preexisting actions.

Removed from the Charter is the now existing authority for an Alderman's Court. Also removed is the currently pending amendment seeking authority to impose fines up to \$10,000.

Author: Selbyville Town Council