

City of Milford



AGENDA

Council Meeting

February 22, 2010

Milford City Hall - Joseph Ronnie Rogers Council Chambers - 201 South Walnut Street, Milford, Delaware

PUBLIC HEARING - 7:00 P.M.

Change of Zone-Beverly Ann Thawley Change of Zone

AR to C3 of 9.28 +/- Acres

Northwest of County Road 206/Cedar Neck Road, Northeast of State Route One/Coastal

Tax Parcel 3-30-11.00-70.03

Ordinance 2009-21

An Ordinance to Amend the Zoning designation of the parcel of land under the legal ownership of Beverly Ann Thawley, Tax Parcel, Northwest of County Road 206/Cedar Neck Road, Northeast of State Route One/Coastal, to be annexed into the City of Milford by resolution, hereafter adopted by City Council.

*Lynn & Karen McColley for a Change of Zone - Deferred until 05/24/10
Tenth Street & N.E. Front Street*

PUBLIC COMMENT SESSION

COUNCIL MEETING

Call to Order - Mayor Daniel Marabello

Introduction of Ordinance 2010-1/Chapter 230/Zoning Code-Signs

*Adoption of Resolution/Electrical Standard Amendment

Introduction of Ordinance 2010-3/Chapter 119/Electric Tariff Amendment

Adjourn

WORKSHOP

Call to Order - Mayor Daniel Marabello

City of Milford Charter Review

Adjourn

SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING; NO PAPER DOCUMENTS WILL BE ACCEPTED OR DISTRIBUTED AFTER PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE.

This agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

11/10/09 12/28/09 02/05/10 02/09/10 *02/17/10 Requested by City Manager to meet FERC Deadline

City of Milford



PUBLIC NOTICE

City Council Annexation & Zoning Public Hearing

NOTICE IS HEREBY GIVEN that Milford City Council will hold a Public Hearing on Monday, February 22, 2010 at 7:00 p.m. in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware for a final determination of the annexation proposal and zoning request of the following properties:

Annexation/Lands of Beverly Ann Thawley
Tax Parcel 3-30-11.00-70.03; 9.28 +/- Acres; Current Zone AR; Proposed Zone C3

All that certain tract, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, and the State of Delaware, as depicted on a survey prepared by Charles D. Murphy Associates, Inc., dated 31 August 2007, fronting on the northwesterly right-of-way line of County Road 206, also known as Cedar Neck Road, at fifty (50) feet wide, and on the northeasterly right-of-way line of State Route One, also known as Coastal Highway, of which the width varies, adjoining other lands now or formerly of Beverly Ann Thawley, Knollac Acres Subdivision, Section II, as recorded in Plot Book 82, Page 24, at the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, and Beverly T. Dugan Subdivision, as recorded in Plot Book 50, Page 147, at said Recorder of Deeds, and being more particularly described as follows, to wit:

Beginning at a point of intersection of the northwesterly right-of-way line of Cedar Neck Road, and the northeasterly right-of-way line of State Route One, also known as Coastal Highway; thence running with said Route One the following two (2) courses and distances:

- 1) North 86 degrees 52 minutes 06 seconds West 57.19 feet, and
- 2) North 49 degrees 00 minutes 17 seconds West 873.40 feet to a corner for other lands now or formerly of Beverly Ann Thawley

thence running with said Thawley lands North 39 degrees 47 minutes 44 seconds East 413.50 feet to a corner for a thirty (30) foot wide buffer of Knollac Acres Subdivision; thence running with said buffer and with Beverly T. Dugan Subdivision South 53 degrees 01 minutes 49 seconds East 897.88 feet to a point on the aforementioned northwesterly right-of-way line of Cedar Neck Road; thence finally proceeding along said right-of-way line South 36 degrees 51 minutes 53 seconds West 442.46 feet to the place of beginning, containing 9.28 acres of land, more or less,

This Public Hearing will allow City Council to gather community comment regarding the above-described annexation and zoning request. Final action may not take place at this hearing; however, a favorable determination could result in the formal adoption of a resolution annexing this parcel into the City of Milford following the public hearing on this date or as soon thereafter as possible.

This action is in response to the request of Legal Owner Beverly Ann Thawley dated August 6, 2009.

Notification of this Public Hearing will be published in the Milford Chronicle on January 28, 2010. Notice by first-class mail will also be sent to property owners within 200 feet of the area proposed to be annexed.

Questions or comments should be directed to Christine Crouch in the Planning Office at 302-424-3712 Extension 308.

Terri K. Hudson, CMC
City Clerk

12/28/09

*MILFORD CITY COUNCIL
MINUTES OF MEETING
December 22, 2009*

A Meeting of the Annexation Committee of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, December 22, 2009.

PRESIDING: Chairwoman Katrina Wilson

IN ATTENDANCE: Committee Members Douglas Morrow, John Workman and Michael Spillane
Planning Commission Chairman Chuck Rini

City Manager David Baird & City Clerk/Recorder Terri Hudson

Chairwoman Wilson called the Annexation Committee Meeting to order at 6:34 p.m. to review the following request submitted by Beverly A. Thawley:

This letter will serve as an official request for annexation of property into the city limits of the town of Milford, Delaware by myself, Beverly Ann Thawley, as sole owner of the property in question.

The property is located on the north east corner of SR 1 and Cedar Neck Road (CR 206) in Sussex County and is across the highway from Matlinds Estates. Parcel #1 is 7.87 acres (+ or -) and tax map # 3301100007003 and parcel ##2 is 1.41 acres (+ or -) and tax map #33011000033300. These parcels are adjacent to each other.

I am requesting annexation of the property so that I may put it to better use by requesting zoning of C3.

I have submitted the necessary documents as required by you as well as the fee of \$7,140.00.

Ms. Wilson noted that City Planner Gary Norris was out of state on leave; City Manager Baird presented the application on his behalf.

Mr. Baird explained the site is located just east of Route 1, north of Cedar Neck Road. Though it is shown as two parcels, the entire rectangle is slated for annexation which consists of just over 9 acres. It complies with the city's land use plan and is part of the growth area and eligible for annexation.

He verified the plan of services has not yet been completed. When prepared, it will be sent with the annexation committee's recommendation. State planning will have twenty working days to respond. Upon receipt back by the city, it will be scheduled for a final vote by city council.

Mr. Baird noted the purpose of the annexation committee meeting, is to review the pros and cons of the annexation and to make a recommendation to city council. In the meantime, public hearings will be scheduled for planning commission and city council.

He then introduced Property Owner Beverly Thawley and her son, Brad Dugan. Mr. Baird noted the application is very straight forward and speaks for itself.

Ms. Wilson then opened the floor for committee members' comments, questions and/or concerns.

Chairman Rini confirmed there is one entrance at the property and asked its location. Ms. Thawley answered there is an entrance on Parcel B. She noted that the two parcels were combined and are now one tax map number on a separate deed as was requested by the city.

She also confirmed there is an entrance relatively close to the east boundary line. She explained she was also given another entrance close to the shaded parcel on the drawing. When asked if they both exit off Route 206, she stated yes noting the parcel has limited access on Route 1 with access only off Route 206.

In response to a question by Mr. Workman and whether the access is dirt or blacktop, Ms. Thawley said the original intent was for the access to be used as a driveway when Parcel B was being used as a residential lot.

Mr. Morrow said it is contiguous and he prefers that any land wishing to be annexed be approved in order to keep it under the control of the city instead of providing the county its benefits. He agrees it fits and is consistent with the comprehensive plan. It appears to be in order and he has no questions or issues.

Ms. Wilson explained the committee normally makes recommendations before the plan of services is presented to other city departments and state agencies. The city manager confirmed that has been done though the plan of services will be available to the full council prior to a final decision. He estimates it will be late February or March before it is scheduled for final action.

Ms. Thawley confirmed that DeIDOT has not been in touch with her in regard to the proposed overpass. She explained she has received a different answer each time she has spoken with them.

Mr. Baird reminded committee members that DeIDOT is proposing a new overpass at Wilkins Road heading over to Cedar Neck Road. According to the last presentation, most of their focus has been on the south side of Wilkins Road/Cedar Neck Road. However, some improvements will be added that do not currently exist in the area.

When asked about what is occurring on the Hall Farm, Mr. Baird explained they are proposing some access roads to and from Route 1 that will cut through the Hall property. However, those plans have not been finalized. They are currently working with the contractual owner. Ms. Thawley noted that DeIDOT informed the neighbors (Clarks) to the south that they will be closing the entrance in front of their horse farm.

Depending on the configuration of the overpass project, Ms. Wilson said it could potentially affect this property. Ms. Thawley explained that at each of the meetings she attended, a different representative would indicate they were unaware of what occurred at the previous meeting. Therefore, she was unable to get any concrete information though they confirmed there will be an overpass which will be dependent on available funding and how long it will take to build.

Mr. Baird noted that issue, along with the entrances, are more geared for the site plan process than the annexation review. He noted the question before this body is if this land should be brought into the city and should it be brought in under a C-3 classification.

Ms. Wilson asked for comments from Mr. Spillane. Mr. Spillane answered the questions he was going to ask have already been addressed. He did add that when he spoke to DeIDOT, they indicated the overpass would come down where the third home is. However, he is unsure what they are going to do though he is concerned where the ramp will end which might affect an entrance onto the parcel. He asked if another road could be done in the area of the farm; Ms. Thawley said yes that was possible. Mr. Spillane informed her the ramps will be on the south side of the parcel if they continue with those plans.

Mr. Workman said that regardless of the overpass, this committee needs to look at the property as it exists today noting the overpass may never happen. He has no problem with the C-3 zone but emphasized that DeIDOT encourages service roads and does not want an access off Route 1. It appears there is sufficient land for a service road because there could be no access from the development into the rear of this property. Ms. Thawley agreed.

Ms. Wilson feels those are issues will need to be addressed by the developer or purchaser once the land development application process begins.

Ms. Wilson asked if there were any more comments. No one responded. Mr. Morrow then moved to proceed with the Thawley annexation of 9 +/- acres with the C-3 zone, seconded by Mr. Workman. Motion carried by unanimous roll call vote.

Ms. Wilson adjourned the Annexation Committee Meeting at 6:53 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

**CITY OF MILFORD
PLANNING COMMISSION**

Minutes of Meeting

January 19, 2010

PRESIDING: Chairman Charles Rini
IN ATTENDANCE: Commissioners Kim Stevenson, Marvin Sharp, George Pilla, Jamie Burk, Archie Campbell
ALSO: City Planner Gary J. Norris, AICP, Recording Secretary Christine Crouch
COUNSEL: City Solicitor Timothy Willard

New Business -

Annexation of lands of Beverly Ann Thawley

Review and Recommendation of Zoning for Annexation

9.28 +/- Acres fronting on the northwesterly right of way line of Country Road 206, also known as Cedar Neck Road, and on the northeasterly right of way line of State Route One

Tax Map 3-30-11.00-70.03; Currently AR District, Proposed C-3 District

Adoption of Resolution PC10-001; Adoption of Ordinance 2009-21

Ms. Beverly Thawley and Mr. Brad Dugan were present to represent the application.

Mr. Norris gave a brief description of the location and confirmed it conforms to comprehensive plan. He then briefly explained the process an application goes through for annexation.

Mr. Rini called for public comment:

Mr. William Phillips of 20950 Surrey Court in Knollac Acres objected to commercial use outside his back door. The intersection of Rt 30 and Rt 1 already has enough accidents as well.

Mr. Norris explained the planning commission is only looking at whether the application conforms to the comprehensive plan and recommending to City Council based on that. If the property is approved and annexed, then when it is developed the planning commission and city council will hold additional public hearings.

Mr. Phillips asked if all of Knollac Acres development didn't want it annexed, what could they do. Mr. Willard explained this body is only looking at the zoning, not whether to annex, but encouraged Mr. Phillips to attend the city council meeting.

Mr. Phillips asked if when the owner is ready to build and go back through the process before the commission and council, will the neighbors have a say then. Mr. Willard replied not really because so long as the development is done according to the code and is a permitted use, there would be no reason to deny it. When the comprehensive plan was being reviewed for changes by the commission and during the hearings to adopt it, no one came out and opposed this as commercial property. That would have been the time to voice objection.

Mr. Brad Dugan of 100 Causey Ave is the applicant's son. He stated the chances of Wawa going there is about the same as his chances of winning Miss America. The whole point in the annexation is that a few years back DelDOT took, through eminent domain, acreage from their farm, which was zoned agricultural, in order to create a stormwater pond that is nothing but a mosquito habitat. The reason for annexing the property is so that it will change the zone to commercial and when DelDOT comes back to "take" more property for the interchange in that location, they will have to pay more money for it.

With no further comments, Mr. Rini closed the public hearing.

Mr. Sharp pointed out that if this property is developed in the county, commissioners that do not live around the area are deciding what will affect the neighbors. At least if it's annexed there are nine citizens from this city on this commission and understand the affects of development to the neighbors.

A motion by Mr. Sharp, seconded by Mrs. Stevenson, to adopt resolution PC10-001 was approved with the following votes:

Yes-Stevenson, Sharp, Pilla, Campbell, Burk, Rini

No- None

A motion by Mrs. Stevenson, seconded by Mr. Pilla, to recommend approval of ordinance 2009-21 was approved with the following votes:

Yes-Stevenson, Sharp, Pilla, Campbell, Burk, Rini

No- None

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC10-001

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,
DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF
MILFORD FOR
THE RECOMMENDED ZONING FOR
BEVERLY ANN THAWLEY
AT CEDAR NECK ROAD AND STATE ROUTE ONE
TAX MAP 3-30-11.00-70.03**

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application shall comply with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on January 19, 2010; and,

WHEREAS, by a vote of 6 to 0 recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following conditions:

1. None

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET

January 29, 2010

Mr. Gary Norris
City of Milford
201 S. Walnut Street
Milford, DE 19963

**RE: Plan of Services 2010-01, Thawley Property Annexation
Tax Parcel # 330-11.00-70.03**

Dear Mr. Norris,

This letter is to confirm that we have accepted the Plan of Services as complete for the above-referenced annexation. The City of Milford has completed all relevant annexation requirements of Title 22, Section 101, Delaware Code.

After this property has been annexed please notify our office in writing so that we may update our records and maps. A copy of the official annexation resolution should accompany this notification. If you have any questions or concerns, please do not hesitate to contact me at (302) 739-3090.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Edgell".

David L. Edgell, AICP
Principal Planner

cc: Connie Holland
Laura Simmons



CITY OF MILFORD
NOTICE OF PUBLIC HEARING
Ordinance 2009-21
Annexation/Lands of Beverly Ann Thawley
Tax Parcel 3-30-11.00-70.03

An Ordinance to Amend the Zoning designation of the parcel of land under the legal ownership of Beverly Ann Thawley, Tax Parcel 3-30-11.00-70.03, fronting on the northwesterly right-of-way line of County Road 206, also known as Cedar Neck Road, and on the northeasterly right-of-way line of State Route One, to be annexed into the City of Milford by resolution, hereafter adopted by the City Council of Milford, Delaware.

WHEREAS, the land hereinafter described is contiguous and adjacent to the City of Milford and the owners thereof have petitioned City Council to annex the same into the City of Milford, and

WHEREAS, it appears to the Mayor and City Council of the City of Milford, Delaware, that the hereinafter described property will be annexed to and become part of the City of Milford and a zoning classification is required, and

WHEREAS, the land owned by Beverly Ann Thawley is currently zoned by Sussex County as "AR" (Agriculture-Residential District), and

WHEREAS, the City Council referred the zoning of the affected territory for report and recommendations to the Planning and Zoning Commission and after a due hearing as provided by law, the Zoning Commission made its recommendation to City Council, and

WHEREAS, after a Public Hearing held on February 22, 2009, and after considering the recommendation of the City Council Annexation Committee, the City Council has determined the proper classification under the zoning ordinance of the City of Milford for the property to be annexed.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

That the following described land situated in Sussex County, Delaware:

All that certain tract, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, and the State of Delaware, as depicted on a survey prepared by Charles D. Murphy Associates, Inc., dated 31 August 2007, fronting on the northwesterly right-of-way line of County Road 206, also known as Cedar Neck Road, at fifty (50) feet wide, and on the northeasterly right-of-way line of State Route One, also known as Coastal Highway, of which the width varies, adjoining other lands now or formerly of Beverly Ann Thawley, Knollac Acres Subdivision, Section II, as recorded in Plot Book 82, Page 24, at the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, and Beverly T. Dugan Subdivision, as recorded in Plot Book 50, Page 147, at said Recorder of Deeds, and being more particularly described as follows, to wit:

Beginning at a point of intersection of the northwesterly right-of-way line of Cedar Neck Road, and the northeasterly right-of-way line of State Route One, also known as Coastal Highway; thence running with said Route One the following two (2) courses and distances:

- 1) North 86 degrees 52 minutes 06 seconds West 57.19 feet, and
- 2) North 49 degrees 00 minutes 17 seconds West 873.40 feet to a corner for other lands now or formerly of Beverly Ann Thawley

thence running with said Thawley lands North 39 degrees 47 minutes 44 seconds East 413.50 feet to a corner for a thirty (30) foot wide buffer of Knollac Acres Subdivision; thence running with said buffer and with Beverly T. Dugan Subdivision South 53 degrees 01 minutes 49 seconds East 897.88 feet to a point on the aforementioned northwesterly right-of-way line of Cedar Neck Road; thence finally proceeding along said right-of-way line South 36 degrees 51 minutes 53 seconds West 442.46 feet to the place of beginning, containing 9.28 acres of land, more or less,

CONTAINING 9.28 (+/-) acres of land shall be, upon final approval of its annexation into the City of Milford, classified under the Zoning Ordinance of the City of Milford and zoned henceforth as C-3 (Commercial Highway District).

Dates:

Introduction to City Council: January 11, 2010

Planning Commission Public Hearing: January 19, 2010

Projected Date of Adoption by City Council: February 22, 2010

Projected Effective Date: March 4, 2010

City of Milford
RESOLUTION
2010-2

Annexation/Lands of Beverly Ann Thawley
Tax Parcel 3-30-11.00-70.03
9.28 +/- Acres
Zoning: C-3

Whereas, the Milford City Council having considered the advantages and disadvantages of annexing into the City as described herein:

All that certain tract, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, and the State of Delaware, as depicted on a survey prepared by Charles D. Murphy Associates, Inc., dated 31 August 2007, fronting on the northwesterly right-of-way line of County Road 206, also known as Cedar Neck Road, at fifty (50) feet wide, and on the northeasterly right-of-way line of State Route One, also known as Coastal Highway, of which the width varies, adjoining other lands now or formerly of Beverly Ann Thawley, Knollac Acres Subdivision, Section II, as recorded in Plot Book 82, Page 24, at the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, and Beverly T. Dugan Subdivision, as recorded in Plot Book 50, Page 147, at said Recorder of Deeds, and being more particularly described as follows, to wit:

Beginning at a point of intersection of the northwesterly right-of-way line of Cedar Neck Road, and the northeasterly right-of-way line of State Route One, also known as Coastal Highway; thence running with said Route One the following two (2) courses and distances:

- 1) North 86 degrees 52 minutes 06 seconds West 57.19 feet, and
- 2) North 49 degrees 00 minutes 17 seconds West 873.40 feet to a corner for other lands now or formerly of Beverly Ann Thawley

thence running with said Thawley lands North 39 degrees 47 minutes 44 seconds East 413.50 feet to a corner for a thirty (30) foot wide buffer of Knollac Acres Subdivision; thence running with said buffer and with Beverly T. Dugan Subdivision South 53 degrees 01 minutes 49 seconds East 897.88 feet to a point on the aforementioned northwesterly right-of-way line of Cedar Neck Road; thence finally proceeding along said right-of-way line South 36 degrees 51 minutes 53 seconds West 442.46 feet to the place of beginning, containing 9.28 acres of land, more or less,

and having considered the recommendation of the Annexation Committee appointed to investigate said annexation; having held a Public Hearing on February 22, 2009 on said annexation; having considered the zoning recommendation of the Planning Commission subject to compliance with Chapter 230 of the City of Milford Code and whether or not to proceed with the proposed annexation; having received acknowledgment of the accepted Plan of Services by the State of Delaware as required of Title 22, Section 101, Delaware Code; the City of Milford, hereby determines as follows:

Now, Therefore, Be It Resolved, that this land is hereby annexed into the municipal boundaries of the City of Milford and the description and plot of said lands are to be recorded in the Office of the Recorder of Deeds in said County where said lands are situate.

Be It Further Resolved, the Petitioner and the City of Milford enter into an annexation agreement for purposes including, but not limited to, the dedication of easements and/or right-of-ways to the City of Milford or State of Delaware for future utility, roads or other public improvements as determined by the City of Milford and/or State of Delaware.

And Be It Further Resolved, that from and after the adoption date of this resolution, the territory annexed will be assessed and taxed at the same rate and basis as other taxable properties within the City of Milford.

NOW I, Daniel Marabello, Mayor of the City of Milford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council of the City of Milford at a meeting held on February 22, 2010, at which a quorum was present and voting throughout and that the same is still in full force and effect.

Mayor Daniel Marabello
City of Milford

Sworn and subscribed before me this 22nd day of February 22, 2010.

Teresa K. Hudson, Notary Public
Commission Expires 07-25-12

PUBLIC NOTICE
PLANNING COMMISSION & CITY COUNCIL PUBLIC HEARINGS
City of Milford Zoning Chapter Amendment
Ordinance 2010-1

NOTICE IS HEREBY GIVEN the Planning Commission of the City of Milford will hold a Public Hearing on an amendment to the City of Milford Zoning Code on Tuesday, March 16, 2010 at 7:00 p.m. or as soon thereafter as possible.

A FINAL PUBLIC HEARING is scheduled on Monday, April 26, 2010 at 7:00 p.m. before Milford City Council. Following the hearing, Ordinance 2010-1 may be adopted, with or without amendments.

AN ORDINANCE TO AMEND Chapter 230, Zoning, of the Code of the City of Milford Relating to Article VI - Signs.

The City of Milford hereby ordains:

Section 1. Amends Chapter 230 Zoning-4 Definitions.

Section 2. Amends §230-4, Definitions and Word Usage, by adding 'EMB Sign' and the following definition:

EMB SIGN: An Electronic Message Board sign that is capable of displaying words, numbers, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. The display of State mandated fuel pricing shall not be considered an EMB SIGN.

Section 3. Amends §230-4, Definitions and Word Usage, by adding 'Animation' and the following definition:

ANIMATION: Mechanical or electrical movement or change of lighting, either natural or artificial, to depict action or to create visual motion. This includes blinking, fading, flashing, scrolling vertically, traveling or crawling horizontally.

Section 4. Amends Section 230-26-General Standards.

Section 5. Amend Section 230-26 by renumbering current paragraphs C and D to paragraphs D and E.

Section 6. Amend Section 230-26 by adding a new paragraph (C) as follows:

C. Guidelines for all Zoning Districts. The following are the general guidelines for signage in all zoning districts:

- (1) Sidewalk or pedestrian areas are not to be obstructed in any way by signs of any type.
- (2) Variances for dimensional increases in area, height or coverage must be submitted for review and determination by the Board of Adjustment of the City of

Milford. Violations of the requirements set forth in the attached chart shall be deemed as a violation of this chapter and will be subject to the penalties herein described.

(3) All signs whose primary function it is to direct attention to the identity of the business, professional or industrial activity and which describes said nature of such operation shall be deemed a business sign. Such signs shall not exceed two in number on any one road frontage.

Section 7.

Amend Section 230-26 by adding a new paragraph (F) as follows:

F. EMB signs. The following are the guidelines for all EMB signage:

- (1) EMB Signs are only permitted in the C-3 zoning district.
- (2) Contain static messages for at least eight (8) seconds before changing the message and shall not have animation on any part of the sign, nor shall such sign have varying light intensity during the display of any single message.
- (3) May not operate at brightness levels of more than 0.20 foot candles above ambient light levels as measured at a distance of 150 feet.
- (4) The owner of said EMB sign shall provide a certification by an independent contractor of the lumens showing compliance at time of building permit application.
- (5) Each sign shall have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.
- (6) Shall meet the same installation and permitting requirements and inspections as set out for all other signs.
- (7) The owner of said sign shall coordinate with the local authorities to display, when appropriate, emergency information important to the traveling public including, but not limited to Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues the information.
- (8) The owner of said sign shall provide to the City of Milford contact information for a person who is available to be contacted at any time and who is able to turn off the electronic sign promptly after a malfunction occurs. If, at any time the EMB display lights malfunction or are no longer working, the owner of said sign shall make repairs to the sign within sixty (60) days or the sign will require removal.
- (9) Each sign located on a State maintained road must comply with all Delaware Department of Transportation rules and regulations applicable to Electronic Changeable Message Signs where not in conflict with this Ordinance.

Section 8.

Amends Sign Chart by showing EMB signs as Prohibited, with the exception of those in the C-3 zoning district.

ZONING
City of Milford
Sign Types and Allowable Dimensions and Restrictions

Zoning District	Types of Signs												
	Wall or Mailbox (residence/occupant ID)		Freestanding (mounted on posts(s))		Fascia: Commercial (wall, roof edge, etc) (of wall square feet)	Hanging/Projecting (extended from wall) (square feet)	Marquee (movable letters)		Illuminated (non flashing)		<i>EMB</i> <i>Square Feet</i>	Mobile (mounted, trailer, etc.)	Billboard (outdoor advertisement)
	Height	Square Feet	Height	Square Feet			Height	Square Feet	Height	Square Feet			
R-1	42 in	2			N/A	N/A	N/A	N/A	N/A	N/A	<i>Prohibited</i>	N/A	N/A
R-2	42 in	2			N/A	N/A	N/A	N/A	N/A	N/A	<i>Prohibited</i>	N/A	N/A
R-3	42 in	2			N/A	N/A	N/A	N/A	N/A	N/A	<i>Prohibited</i>	N/A	N/A
C-1	42 in	2	48 in	4	10%	15	48 in	9	48 in	4	<i>Prohibited</i>	N/A	N/A
C-2			48 in	4	10%	20	48 in	9	48 in	4	<i>Prohibited</i>	N/A	N/A
C-3			28 ft	225	10%	20	10 ft	48	28 ft	225	<i>32 and ratio of 4:8</i>	N/A	N/A
H-1			25 ft	70	5%	N/A	N/A	N/A	25 ft	70	<i>Prohibited</i>	N/A	N/A
OC-1			28 ft	225	5%	N/A	10 ft	48	28 ft	225	<i>Prohibited</i>	N/A	N/A
I-1			28 ft	200	5%	N/A	10 ft	48	28 ft	200	<i>Prohibited</i>	N/A	N/A
I-2			28 ft	200	5%	N/A	10 ft	48	28 ft	200	<i>Prohibited</i>	N/A	N/A

Section 9. Dates.

Introduction to City Council: 02-22-10

Planning Commission Public Hearing: 03-16-10

City Council Public Hearing: 04-26-10

Adoption Date (Projected): 04-26-10

Effective Date (Projected): 05-06-10

City of Milford



RESOLUTION 2010-3

A RESOLUTION BY CITY COUNCIL TO AMEND THE REGULATIONS OF THE CITY OF MILFORD BY REVISING THE ELECTRICAL STANDARDS OF THE CITY OF MILFORD TO MAKE PROVISION WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS OF THE CITY OF MILFORD.

THE CITY OF MILFORD HEREBY ORDAINS as follows:

Section 1. LEGISLATIVE FINDINGS. Whereas, the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008).

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: “Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator’s or regional transmission organization’s organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate.”

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: “Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator’s or regional transmission organization’s bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority.”

Whereas, pursuant to the Electrical Standards of the City of Milford, the Council of The City of Milford (“City Council”) is authorized to enact rules governing the provision of electric power to retail customers served within the service territory of the City of Milford.

Whereas, the City Council has determined that it is necessary to regulate the provision of demand response in the City of Milford and the collective interests of the City of Milford, as a public power utility with an obligation to serve at retail, and the City of Milford’s retail customers to permit any entity to aggregate demand response on behalf of its retail customers unless first approved by the City of Milford.

Whereas the City Council, as the electric retail regulatory authority for the City of Milford has determined it to be desirable that the aggregation of demand response on behalf of retail customers served by the City of Milford to be bid directly into the organized electric and ancillary services markets administered by PJM Interconnection, LLC (or any successor independent system operator or regional transmission organization to which the City of Milford is a member) be performed by the City of Milford or its authorized designee, the following amendments to the Code of the City of Milford are hereby adopted.

Section 2. The City of Milford Electrical Standards are hereby revised by adding under the heading “Aggregation of Retail Customer Demand Response” a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator’s or regional transmission organization’s organized electric markets.
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator’s or regional transmission organization’s organized electric markets may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 3. The City of Milford Electrical Standards are hereby revised to add under the heading “Ancillary Services Provided by Demand Response Resources” a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator’s or regional transmission organization’s organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff).
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator’s or regional transmission organization’s organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 4. NOW, THEREFORE, I, Daniel Marabello, Mayor of the City of Milford, do hereby certify that the foregoing resolution was duly and regularly adopted by the City Council of the City of Milford at a council meeting held the 22nd day of February 2010 by a majority vote.

Mayor Daniel Marabello

Attest: _____
City Clerk

CITY OF MILFORD
ORDINANCE 2010-3

AN ORDINANCE TO AMEND THE REGULATIONS OF THE CITY OF MILFORD BY REVISING CHAPTER 119, ELECTRICAL STANDARDS, OF THE CITY OF MILFORD CODE TO MAKE PROVISION WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS OF THE CITY OF MILFORD.

THE CITY OF MILFORD HEREBY ORDAINS as follows:

Section 1. LEGISLATIVE FINDINGS. Whereas, the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008).

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: “Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator’s or regional transmission organization’s organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate.”

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: “Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator’s or regional transmission organization’s bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority.”

Whereas, pursuant to the City of Milford Code, Chapter 119, the Council of The City of Milford (“City Council”) is authorized to enact the City of Milford Electric Tariff governing the provision of electric power to retail customers served within the service territory of the City of Milford.

Whereas, the City Council has determined that it is necessary to regulate the provision of demand response in the City of Milford and the collective interests of the City of Milford, as a public power utility with an obligation to serve at retail, and the City of Milford’s retail customers to permit any entity to aggregate demand response on behalf of its retail customers unless first approved by the City of Milford.

Whereas the City Council, as the electric retail regulatory authority for the City of Milford has determined it to be desirable that the aggregation of demand response on behalf of retail customers served by the City of Milford to be bid directly into the organized electric and ancillary services markets administered by PJM Interconnection, LLC (or any successor independent system operator or regional transmission organization to which the City of Milford is a member) be performed by the City of Milford or its authorized designee, the following amendments to the Code of the City of Milford are hereby adopted.

Section 2. Chapter 119, City of Milford Electric Tariff, is hereby revised to add under the heading “Aggregation of Retail Customer Demand Response” a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator’s or regional transmission organization’s organized electric markets.
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator’s or regional transmission organization’s organized electric markets may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 3. CHAPTER 119, City Electric Tariff, is hereby revised to add under the heading “Ancillary Services Provided by Demand Response Resources” a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator’s or regional transmission organization’s organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff).
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator’s or regional transmission organization’s organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 4. EFFECTIVE DATE. This ordinance shall take effect in accord with law.

Adopted Date March 8, 2010

Effective Date March 18, 2010

Article IV. Council Government

Article V. Administration and Appointees

Article VI. Financial Procedures

Article VII. Taxation, Assessors ad Assessment Of Taxes

Article VIII. Borrowing Of Money and Issuance Of Bonds

Article IX. Tax Increment Financing and Special Development Districts

Article X. Severance

Article XI. Transitional Provisions

Article XII. Repealer

Article I. Incorporation, Territory and Annexation

1.01- Incorporation

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

The solicitor pointed out the territorial limits has been changed by citing a map to be recorded in the Recorder of Deeds as was done by another town recently. He feels it is easier to record and the metes and bounds will not be included. Otherwise, every time an annexation is done, the charter will need to be amended. In this manner, the process is much simpler by having a new map recorded.

The official map would be kept by the city clerk at city hall.

1.02- Territorial Limits

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

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and~~

~~Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run, thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 198; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid.~~

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

Mr. Willard then referenced the next section and asked if council wanted to keep the legal descriptions of each ward in the charter or refer to a map as is being done with the boundaries of the city. Ward maps would also need to be official and recorded.

Mr. Spillane believes it is better to handle in this manner because of the uneven nature of the ward boundaries though he is hoping that can be changed to easier identify the wards.

City Manager Baird said the drawback of adding the metes and bounds is each time you annex a property into the city,

the charter has to be amended. If it is done by referencing a map, it will not be necessary to go back to the general assembly.

The solicitor still recommends a map be done regardless of how it is referenced.

Mr. Spillane confirmed that to be in a ward, the property must be contiguous. It was questioned whether or not Meadows at Shawnee should have been placed in the first ward versus the third ward at the time of its annexation. The mayor disagreed stating the line extends down Rehoboth Boulevard eastward, then west to Southeast Second Street and McColley Street. Anything on the east side of Rehoboth Boulevard and south of Southeast Second Street is in the third ward according to the description in the charter.

The city manager pointed out there is a good chance our ward boundaries will change following the completion of the 2010 Census. The solicitor stated the U.S. Constitution dictates that voting districts have equal representation and that they be equally proportioned to a certain margin in addition to being contiguous to reduce the potential for any gerrymandering.

It was agreed there should be an official map of each ward as outlined in the charter showing all city streets and changed as needed.

1.03- Wards

The City of Milford shall ~~initially~~ be divided into four Wards and an *official map of the Wards shall be kept by the City Clerk:*

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly

boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street.

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

1.04- Annexation

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished.~~

The City may from time to time extend its boundaries through the process of annexation in accordance with 22 Del. Code, Chapter 1, Section 101 and the following procedures shall apply:

~~(a) If all the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. The City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. Once the favorable vote for annexation shall have been case, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.~~

City Solicitor Willard referenced section (a) that addresses a traditional annexation where all property owners are in favor of the annexation

The language and process remains the same, with some reference to Title 22 and the required plan of services.

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

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

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than sixty (60) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code Title 22 §101. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation. (4) The annexation/rezoning application shall also be referred to the Planning Commission for a public hearing and review and recommendation to City Council.

(4) Within sixty (60) days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation and zoning application. Following the public hearing and subject to the acceptance of the Plan of Services, City Council may then pass a resolution annexing such territory to the City of Milford. Such

resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. If the Resolution fails to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

(5) Prior to the resolution being considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed.

(6) If the resolution receives a favorable vote for annexation, the City Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

~~b) 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 City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford. 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 the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation~~

~~of the committee whether or not to proceed with the proposed annexation and the reasons therefore. A resolution shall then be passed by the City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote. The resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed. Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date~~

~~set forth for the said Special Election. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:~~

~~For the proposed annexation
 Against the proposed annexation~~

~~The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until seven o'clock in the evening, 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.~~

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

~~In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford~~

~~shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, 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 part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.~~

The solicitor explained section (b) has also been reorganized and addresses situations where five or more owners, but less than all, wish to become annexed. Previously, it was referred to as a hostile annexation though it is somewhat uncommon today. This process is more unique because it requires a referendum, vote and additional procedures.

(b) 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 City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, may request the City Council to annex that certain territory in which they own property.

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

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than sixty (60) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code Title 22 §101. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation.

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

(4) Within sixty (60) days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation and zoning application. Following the public hearing and subject to the acceptance of the Plan of Services, the City Council may propose a resolution to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. The resolution shall contain a description of the territory proposed to be annexed, requested zoning and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed. If the resolution fails to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

Mayor Marabello referenced the below section where both the residents and property owners of the proposed territory have a vote questioning the reasoning behind the residents' vote. He does not believe the residents of the territory should have a vote; Mr. Adkins agreed.

Mr. Workman feels that a property owner who does not want to be annexed should be eliminated from the process. He requested the solicitor consider some alternative language to prevent that from occurring.

The solicitor also recalled the discussion. He will revisit the section and provide additional information at a future meeting.

(5) Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory

previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

(6) Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

(7) At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

(8) Every citizen eighteen (18) years or older, who is a resident of the territory proposed to be annexed but who is not a property owner, shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. Property owners in the area proposed to be annexed shall have only one (1) vote regardless of the number of parcels owned. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation.

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

[] For the proposed annexation

[] Against the proposed annexation

(10) The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until eight o'clock in the evening, 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.

(11) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plat of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or 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 part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

The solicitor also noted the new section for annexation agreements which will be recorded with the resolution.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.049(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in

territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

The resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement. The resolution and ballots (if an election is required) annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to adoption of the final resolution by city council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

A section was added requiring a ward be designated at the time the property is annexed.

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

Article II. Nominations and Elections. (Previous Article IX)

Mr. Willard then referenced the amendments to the election section. The charter was updated to coincide with Title 15 of Delaware Code for municipal elections. Though much of the previous language was specific, it was agreed to reference state law to prevent having to change the charter every time state law changes.

2.01- City Elections (Previous 9.01)

(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council and in accordance with State law., ~~due notice given as required in 15 Del. C. Section 7553.~~

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election.~~

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *electors* of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

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

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or *natural persons owning* ~~owns~~ property within the City of Milford ~~prior for~~ *at least thirty days prior to the registration deadline, and who are and who is* over the age of eighteen (18) years, shall be entitled to one vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. *A Corporation, Partnership, Limited Partnership or other legally created entity, is prohibited from registering and voting as a non-resident property owner unless property within the City is titled in an individual name.*

Mr. Spillane suggests the deadline to declare the ward in which they will vote for nonresident voters owning properties in multiple wards coincide with the candidate filing deadline of sixty days. It was clarified that residents are only able to vote in the ward they reside, regardless of the location of any other properties they may own.

It was confirmed the general voter registration deadline will remain at thirty days; Mr. Willard said an exception will be added for non-resident property owners to declare the ward they will be voting in (see below):

(e) *It is the responsibility of those registered voters who own property in more than one ward to ~~must~~ declare within at least [thirty (30) /sixty (60)] days prior to the election which ward they will vote in on the day of the election. In the event that a person owns property(s) in the City in addition to their place of residency, he or she may vote only where he or she resides.*

(f) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. ~~and~~ The person having the highest number of votes, for each office, shall be declared duly elected in accordance with ~~15 Del. C. Section 7553~~ *State law*, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(g) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of *time as required by State law. at least ten (10) days following said election.*

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

Mr. Willard pointed out the change to determine a tie; a special election will now be scheduled versus election by lot.

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

Mr. Adkins questioned the change in the deadline to file for office (from thirty to sixty days). The city clerk explained that presently thirty days before the election, voter registration closes, the candidates filing deadlines, the absentee ballots process begins and ballots must be available, non-residents must declare the ward in which they are voting and the candidate information must be provided to the commissioner of elections the following day. Having a sixty-day deadline for candidates to file and keeping the voter registration deadline at thirty days is a little less cumbersome. The solicitor feels that sixty days is reasonable noting that in state elections, as well as a number of other towns, there is a much longer period of time.

(j) Not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) ~~registered~~ *qualified* voters ~~resident~~ *in the City of Milford* in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) ~~registered~~ *qualified* voters ~~resident~~ *in the City of Milford.*

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter.~~

2.02- *Emergency election postponement; declaration.*

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event. Once issuance of the declaration, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

The solicitor noted that because the absentee ballot is now required to follow state law; the charter was changed accordingly.

2.03- Absentee Ballot Procedures (Previous 9.02)

Absentee voting in the City of Milford is in accordance with ~~15 Del. C. Section 7570-7585~~ State law. The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum.

6.03- Council Ballots:

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

2.04- VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS (Previous 9.06)

(A) VOTING

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

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

Candidates are no longer allowed two persons as watchers and challengers (per state law). The section was removed because it is spelled out in Title 75 and only one challenger is permitted at a time though they can be substituted throughout the day.

6.04- Watchers And Challengers

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots.~~

~~6.05=~~ 2.05- Ballots For Ordinances And Charter Amendments (Previous 9.05)

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

~~6.06=~~ Voting Machines.

2.06 VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS (Previous 9.06)

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

~~6.07=~~ 2.07- Council Districts; Adjustment Of Districts (Previous 9.07)

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

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

(c) Report; Specifications. By the first day of January *of the second year following the decennial census* ~~of every tenth year from the adoption of this Charter~~, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

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

(2) Each district shall contain as nearly as possible the same number of qualified voters ~~;~~ ~~determined from the registration for the last statewide general election~~, but *AND* districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the *City* Clerk, the report shall be treated as an ordinance introduced by a Council member.

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

~~.if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts.~~

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

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

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

ARTICLE III. Powers of the City – *Council and Mayor* (Previous Article II & Article IV)

3.01- Enumerated Powers *Powers of the City* (Previous 2.01)

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

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

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

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

(2) A contract for professional services.

The solicitor advised the following section was only reworded. The increase from \$10,000 to \$30,000 was adopted during the charter change in 2008.

Mr. Spillane is uncomfortable with the \$30,000 threshold. He gave as an example five different sidewalks needing repair and two possible ways of handling it. One manner would be to make all five sidewalks one project and bid it. The way the charter is currently written would not require bidding if each individual sidewalk was below \$30,000 though potentially the entire project would total upwards of \$150,000. In that case, council would never be made aware of those costs and the job may simply be handed to one contractor without any other contractors being given a chance.

Mr. Spillane then confirmed the city manager has his own discretionary fund where such a bill could be paid from.

Mr. Workman prefers council being informed of such purchases. He agrees with Mr. Spillane that there is more control with a lower number.

Mr. Adkins asked for the city manager's opinion noting nothing prohibits a project from being bid; Mr. Baird said the \$30,000 is adequate today noting the amendment was made almost two years ago. In regard to Mr. Spillane's comments, the city manager would prefer language prohibiting that practice instead of reducing the amount. He pointed out the costs of putting together a bid package or RFP. He agrees with Mr. Adkin's comment there is nothing prohibiting the city from bidding items below \$30,000 and in many cases, buy through comparison pricing or by soliciting quotes.

Mr. Spillane recalls a similar situation with sidewalks repairs back in 2008. His other concern is that formal advertising alerts more vendors which he feels is a much fairer process. He does not want the same type of work to be given to the same contractor continuously.

When asked for a comparison with other municipalities, Mr. Baird said it is all across the board. He noted that some towns follow the state procurement and guidelines.

Mayor Marabello agrees we need to consider the aggregate and in the case of sidewalks, many sidewalks could be repaired easily over \$100,000 with each sidewalk individually below the \$30,000. The sum of those projects should be combined to obtain a true total.

Mr. Workman suggested adding aggregate cost to the language.

Mr. Willard suggested defining the word 'contract' in paragraph three. Mr. Baird will develop some additional language. He noted that in addition to the cost of the city in preparing bids, there is a cost to the contractor when putting those bids together. That cost is factored in and many times, public bidding is not as good as negotiating with a contractor.

Mr. Spillane prefers bidding the work to be fair and equitable though he understands there is a cost. Ms. Wilson agrees adding it is a good way to keep council informed of projects and up to date on who is doing the work.

When asked if everyone was comfortable with the \$30,000 threshold, Mr. Adkins said the \$30,000 is acceptable and provides the flexibility needed today.

Mayor Marabello recommends that language be added to protect any potential abuses. The mayor then confirmed the consensus of council is the \$30,000 remain though some additional language will be presented to council.

(3) ~~No contract shall be made by Council for any purpose, the~~ A contract ~~price of~~ which is ~~in excess~~ less than ~~of~~ Thirty Thousand (\$30,000).

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

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

Mr. Willard explained many of these changes were made by the committee and involved borrowing and bonds. The committee felt this section should reference the article that addresses borrowing and bonds.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *in accordance with the provision of Article VIII of this Charter.* ~~a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

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

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

3.02- Construction (Previous 2.02)

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

3.03- Intergovernmental Relations (Previous 2.03)

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

3.04- Notice of Action (Previous 2.04)

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

Mr. Spillane questioned the composition of council and because they are defined as a group of eight in section 4.01, he asked if an individual council member had the right to check into something they felt was occurring before bringing it before council.

It was agreed this refers to council collectively.

Mr. Willard explained that council is given these powers as a deliberative body and though everyone does not agree, the decision is made by voting which means to act as a group. He compared this to a senate investigation and councils' power (as a whole) being similar to a prosecutor in a court.

It was reiterated that council members are unable to discuss such issues with city employees or police officers and need to follow the procedure outlined in the charter which requires them to go through the city manager or police chief first.

3.05- Investigations (Previous 4.08)

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~\$100.00~~ **\$500.00**, or by imprisonment for not more than ten (10) days, or both.

3.06 - Independent Audit (Previous 4.09)

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council ~~may~~ shall, without requiring competitive bids, designate such accountant or firm annually or for a

period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and ~~approve~~ accept each annual audit.

3.07 – Mayor - General Powers (Previous 5.01)

Mr. Willard noted the sentences in brackets that have not been resolved involving the meeting agenda. Mr. Workman agrees the mayor may oversee the agenda though council has the right to add items to the agenda as well as approve it. He feels that if an elected official feels there is an issue in their ward that needs to be discussed, they should have the right to request it be put on the agenda. He recommends the agenda be e-mailed to council and approved or disapproved the Monday or Tuesday prior to the meeting.

Mr. Spillane agrees and feels that if the mayor does not want something on the agenda, even though council has requested it in writing, it has the potential to be stalled and never addressed. He also believes if there is a matter of public concern, he should have the right to add it to the agenda.

Mr. Adkins agrees and disagrees. He believes the mayor should be the deciding factor because he/she is elected by the entire city versus a council person who is elected to represent only one ward. However, he also likes the option for the majority of council to approve an item being placed on the agenda.

Mr. Willard explained this is an on-going issue. From a management standpoint, the mayor, city manager and city clerk prepare the agenda. The city clerk receiving phone calls from various council members requesting items can be done but from a management/gatekeeper perspective, he suggested making the requests by e-mail or correspondence. The mayor would have the option of adding it as a separate line item, but if he feels it is something council should decide, it would be added to the correspondence section. Council would then consider it and if in agreement, it would be added to the following agenda. Mr. Spillane's concern the document would be overlooked could be handled by having it added to the correspondence section.

Mr. Workman understands why the mayor would oversee the agenda, however, he agrees council should have final approval.

The mayor feels this can be handled through correspondence. Mr. Willard agreed noting there are some items, such as those requiring a public hearing and discretionary items requested by the city manager, that should be automatically added.

Mr. Morrow agrees that everyone on council should have the right to request something be added to the agenda. However, it should be initially presented through some sort of documentation and a procedure in place to prevent it from being ignored.

Ms. Wilson agrees with submitting the item through the correspondence section. In that manner, council can track it from the time it was suggested. She also believes that some items may need some research or supporting documentation before it is presented to council to prevent a lot of unnecessary questions. In those cases, the matter may not be able to be added immediately. However, she agrees council should have the right to make such a request.

Mr. Willard pointed out there will be exceptions when items can automatically be added to the agenda. However, it will prevent requests from being ignored and instead allow council to make the determination.

The city manager feels there are no rules of operation for city council and how business is conducted. The charter talks about procedure but also states that council shall determine its own rules and order of business, etc. Unless other rules are adopted, council must follow Roberts Rules of Order and Parliamentary Procedure. He feels that some formal rules should be developed and one item would be how to have something put on the agenda. There may also be other areas that could be addressed and he suggests a committee be assigned to work on those rules.

Mr. Baird said he would be cautious about becoming too specific about certain things in the charter because potentially half of city council can change every year. He does not recommend tying the hands of future councils by adding too many specifics and would rather this be done by adopting formal rules and procedures.

Mr. Brooks added that often there are times when a councilperson feels something should be placed on the agenda. In many instances, a council person has taken a matter to the city manager and the majority of times, it is able to be resolved by him or by city staff. He pointed out that if a council person brings something on the floor, both sides of the issue need to be presented.

It was decided to keep the matter in brackets for a later decision to be made.

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. *The Mayor may appoint such committees as he deems necessary for the proper administration of City Council.* {The Mayor shall manage the agenda. Council members may request in writing to the Mayor that an item be placed on a future agenda under the Correspondence item. A majority of Council may determine whether or not the item should be placed on a future agenda.}

The solicitor said this was moved from another section. However, it contains another unresolved item about whether the vice mayor will have the right to vote while serving in the place of the mayor while presiding over the meeting and if so, should it only be in the case of a tie.

Mr. Brooks said he brought this before council because when he served as vice mayor for eighteen years, he was told by the city solicitor, mayor and two city managers that he was to act just as the mayor is required which did not allow a vote unless there is a tie.

Mr. Workman feels it is two different positions. Though the vice mayor is originally elected as councilperson, once they replace the mayor as the presiding officer, they become the mayor.

Mr. Adkins pointed out that if the vice mayor votes, it could result in a tie. Mr. Baird explained that in that case, the motion would fail.

Mr. Starling pointed out that if the vice mayor was prohibited from voting, there would be a maximum of seven council members so in most cases it would not end in a tie unless someone abstained or another council member was absent.

Mr. Morrow agrees the vice mayor is acting as the mayor once they become the presiding officer and should follow the restrictions and benefits of being the mayor.

Ms. Wilson said that when acting as vice mayor, she was advised to vote as an elected councilperson. However, she agrees that overall, the vice mayor in those instances should follow what the mayor is permitted or restricted from doing.

It was suggested that should the mayor be absent for an extended period of time, perhaps some wording could be added to allow the vice mayor to act as councilperson with the right to vote. Short term, it would be handled in a different manner.

Mayor Marabello feels that a long term absence would be very rare. If something is a contentious or critical issue, the vote can always be deferred. In his opinion, it is a temporary position and they are only presiding over the meeting. Therefore, he does not feel the vice mayor should lose the right to represent their ward for one or two meetings.

The solicitor's instincts are the vice mayor has the mayor's authority though the language of the existing charter does not take away what has been given by the voters which he feels is significant.

Mr. Johnson asked what is allowed in other towns in this situation. He believes that when a person is elected as a council person, those constituents expect that person to vote, whether or not they are elected to the vice mayor position.

Mr. Starling believes that by allowing the vice mayor to vote sets up a scenario for a tie vote.

The mayor suggested the item be kept bracketed to be addressed at a future meeting.

3.08 - *Vice Mayor* (Previous 4.01 & 5.01)

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. While serving in the place of the Mayor, the Vice Mayor **[shall/shall not]** be permitted to vote as a member of City Council **[except in the case of a tie].**

3.09 - *General Powers and Duties* (Previous 4.03)

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

Article IV. *Council Government* – *Composition, Qualifications, Vacancies and Procedure*

(Previous Article III & Article IV)

4.01- *Composition of Government* (Previous 3.02)

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) council members. Whenever the word “mayor” is used, it shall refer solely to the mayor. Whenever the word “council” is used it shall refer to the eight (8) council members.

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two

in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward.

The below sentence was removed because it is addressed in another section.

~~Only qualified registered voters of the City, meeting the qualifications for Mayor and City Council as outlined in Section 3.03, shall be eligible to hold the office of Councilperson or Mayor.~~ The Mayor and Councilpersons shall each serve for a term of two years.

The meeting time was changed to 7 o'clock and moved to the second Monday to adhere to the requirements in the state municipal election law. The city clerk concurred the 7-day rule required for the election appeal process.

There was a question about the workshop/public hearing meeting that is held on its regular night following the election. In some cases, a sitting councilperson has been defeated. It was confirmed that state law does not allow the newly elected councilperson to take office until seven days or more after the election.

There was a discussion about whether the meeting should be postponed until the following month or to change it to the third Monday before the election.

The city solicitor believes that constitutionally, the council members are no longer able to take action once another person was elected to replace them. He said that was cited in recent case law involving previous Register of Wills David Wilson who was elected in the middle of his term to the office of State Representative.

Mr. Willard will follow up with the city clerk after determining the legalities of whether outgoing council members can legally take action.

4.02 Annual Organizational Meeting (Previous 4.01)

At ~~7:30~~ seven o'clock (7:00) p.m., on the *second* Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. ~~At said meeting, the Council shall organize by a majority vote of the entire Council and elect a Vice-Mayor, who shall be a member of the Council.~~

4.03 - Compensation and Expenses (Previous 4.02)

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

4.04- Prohibitions (Unchanged)

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

(b) *Appointments and removals*. Neither the *Mayor*, Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the *Mayor* or Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration*. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) *4.08*, the *Mayor* or Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the *Mayor* or Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- Vacancies, Forfeiture of Office; Filling of Vacancies (Unchanged)

(a) *Vacancies*. ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.~~

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

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

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

~~(c) *Filling of Vacancies*. If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year, the election authorities shall call a special election to fill the vacancy for~~

~~the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.~~

Mr. Willard advised a great deal of thought went into the filling of vacancies and recommends the following procedure as has been rewritten.

Mr. Adkins questioned a vacancy occurring between three and six months which reads 'shall' and asked if that means the appointment must be made. He suggested some discretion questioning a vacancy that may be three months and one day in relation to the sixty day filing deadline. He recommends replacing 'shall' with 'may' to allow more flexibility depending on the time remaining in relation to meetings and filing deadlines.

Mr. Willard asked that by adding 'may', what would be the alternative to leaving it vacant though you do not have to because you are saying 'may'.

It was agreed to change the language to 'may' (three to six months).

(c) Filling of Vacancies. If a vacancy occurs in the Council and the remainder of the unexpired term is less than three (3) months, the vacancy shall be filled in the next general election. If a vacancy occurs in the Council and the remainder of the unexpired term is less than six (6) months but more than three (3) months, the Council shall may within 45 days of the vacancy occurring, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than six (6) months, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

Mr. Workman recommends the age for candidates for office remain at eighteen years noting that if you are old enough to vote, you should be able to run for office.

The city manager explained the change to twenty-one coincides with the state municipal law though the law allows for discretion.

Mr. Adkins agreed with Mr. Workman noting that at eighteen years of age you have to register for the draft, can serve in the military and are able to own property. He feels this is the most basic level of government to become involved in and should be a right that eighteen years old have.

Council agreed it would remain at eighteen years of age and it would be changed accordingly.

4.06- Qualification for Mayor and City Council (Previous 3.03)

~~No person shall be eligible for election as Mayor or as a member of Council unless they have been a resident of the State of Delaware and the City for thirty (30) days preceding the day of the election; and are over the age of eighteen years prior to the day of the election. Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

(a) No person shall be eligible for election as Mayor unless he or she is a citizen of the United States of America, a bona fide resident of the City of Milford and has continuously resided therein for a period of one year preceding the day of the election, is over the age of ~~twenty-one (21)~~ eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

(b) No person shall be eligible for election as a City Council member unless he or she is a citizen of the United States of America, a bona fide resident of the Ward in the City of Milford where they are seeking election and has continuously resided therein for a period of one year preceding the day of the election, is over the age of ~~twenty-one (21)~~ eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

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

It was confirmed that presently, nothing in the charter prohibits a council member from running for two seats. The solicitor said that some research was done and there are varying policies including some that prohibit it.

Mr. Starling, Mr. Adkins, Mr. Workman and Mr. Brooks agreed that someone should not be able to run for two seats and if a councilperson files to run for mayor, they should surrender their council seat.

Ms. Wilson believes that if someone runs for mayor and loses, they should be able to retain their council seat if their term is unexpired.

Mr. Willard pointed out that would apply to a councilperson who is midterm; he questioned if a councilperson whose term coincides with the mayor, should be permitted to run for both offices.

Mr. Spillane said it would be unfair to prohibit a council member whose term of office is the same as the mayors from running for mayor and require them to give up their seat.

Some other towns policies were then discussed:

If a councilman files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday of May on the year of the election; and if they have a year remaining on their term, then their office as councilman shall be filled at the same annual election in which they have filed to run for the office of mayor.

No person who holds any elected office in the town may file as a candidate for the office of mayor unless and until that person first resigns from his/her elected position; provided however, that this subsection shall not require any elected official whose term of office expires at the next town election to resign his/her seat as a council-member in order to run for the office of mayor in that next town election.

Any councilperson whose term of office coincides with the mayor and who files to run for mayor will relinquish his/her seat on the day the mayor is sworn into office regardless of whether or not they are elected to the office of mayor. Councilpersons whose terms do not expire at the same time as the mayor will retain their seat should they not be elected mayor. Council members serve staggered two-year terms but the mayor serves a three-year term.

The mayor agrees with Ms. Wilson that if you are running between your term, you are not costing the city any money and it should not be a problem. However, someone who runs for two different offices and wins the mayoral seat should not incur additional costs to the city by causing another election.

It was the overall consensus of council that a person should not run for two different offices though Mr. Spillane disagreed. However, it was also agreed it would continue to be discussed at a future meeting.

~~(d) If a councilmanmember files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor—to be determined by City Council. and is elected before his or her Council term has expired, the elected Mayor's council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.~~

4.07- Judge of Qualifications (Previous 4.06)

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

Mr. Willard advised that most of the changes in the election section were made to comply with state law.

4.08 - Procedure (Previous 4.10)

(a) Meetings. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings *may* be held *in compliance with State law and may be* on the call of the Mayor or of four or more ~~members, whenever practicable, upon no less than twelve (12) hours' notice to each member.~~ All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter *permitted by State Law* ~~which would tend to defame or prejudice the character or reputation of any person.~~

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

(c) Voting. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section ~~4.05(c) 2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

4.09 - Action Requiring an Ordinance (Previous 4.11)

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

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

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

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

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

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

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

(h) Amend or repeal any ordinance previously adopted.

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

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

4.10 - Ordinances in General (Previous 4.12)

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

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

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

(d) “Publish” Defined. As used in this section, the term “publish” means to print in one or more newspapers of general circulation in the City:

(1) A brief summary of the Ordinance, the ordinance or a brief summary thereof, and

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

inspection.

4.11 - Emergency Ordinances (Previous 4.13)

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection ~~5.09(b)~~ 6.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except one made pursuant to Subsection 6.09 (b), ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.12- Codes of Technical Regulation (Previous 4.14)

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

(b) The requirements of Section ~~2.12~~ 4.10 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection ~~2.15(a)~~ 4.13(a).

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

4.13 - Authentication and Recording, Codification Printing (Previous 4.15)

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

(b) Codification. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

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

The next review will begin with Article V- Administration and Appointees. Mr. Spillane asked for a date when council could again review the charter.

Mayor Marabello suggested continuing the review at the next workshop in February.

Executive Session - Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation.

Ms. Wilson moved to go into Executive Session reference 29 Del. C. §10004(b)(4) to discuss pending and/or potential litigation, seconded by Mr. Starling. Motion carried.

Mayor Marabello recessed the Council Meeting at 8:49 p.m. to go into a closed session.

Return to Open Session

Council returned to open session at 9:06 p.m.

Executive Session Item

No action taken.

ADJOURN

Mr. Workman moved to adjourn the Council Meeting, seconded by Mr. Johnson. Motion carried.

Mayor Marabello adjourned the Monthly Council Meeting at 9:06 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

02-04-10

<u>Table of Contents</u>	<u>Page</u>
Article I.	<i>Incorporation, <u>Territory and Annexation</u></i>
Article II.	<i>Nominations And Elections.</i>
Article III.	<i>Powers of the City – <u>Council and Mayor</u></i>
Article IV.	<i>Council Government</i>
Article V.	<i><u>Administration and Appointees</u></i>
Article VI.	<i>Financial Procedures</i>
Article VII.	<i>Taxation, Assessors ad Assessment Of Taxes</i>
Article VIII.	<i>Borrowing Of Money and Issuance Of Bonds</i>
Article IX.	<i>Tax Increment Financing and Special Development Districts</i>
Article X.	<i>Severance</i>
Article XI.	<i>Transitional Provisions</i>
Article XII.	<i>Repealer</i>
Article I.	<i><u>Incorporation, Territory and Annexation</u></i>

1.01- Incorporation

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

1.02- Territorial Limits

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

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say:~~

~~BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 198; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat, thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid.~~

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

1.03- Wards

The City of Milford shall ~~initially~~ be divided into four Wards and an *official map of the Wards shall be kept by the City Clerk:*

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly

direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street.

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

1.04- Annexation

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished.~~

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

~~(a) If all the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner~~

~~duly witnessed, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. The City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. Once the favorable vote for annexation shall have been case, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.~~

(a) All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner

duly witnessed, may request the City Council to annex that certain territory in which they own property.

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

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than sixty (60) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code Title 22 §101. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation. (4) The annexation/rezoning application shall also be referred to the Planning Commission for a public hearing and review and recommendation to City Council.

(4) Within sixty (60) days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation and zoning application. Following the public hearing and subject to the acceptance of the Plan of Services, City Council may then pass a resolution annexing such territory to the City of Milford. Such

resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. If the Resolution fails to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

(5) Prior to the resolution being considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed.

(6) If the resolution receives a favorable vote for annexation, the City Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

~~b) 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 City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members~~

~~thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford. 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 the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore. A resolution shall then be passed by the City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote. The resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed. Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds~~

~~(2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:~~

~~For the proposed annexation
 Against the proposed annexation~~

~~The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until seven o'clock in the evening, 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.~~

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

~~In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, 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 part of the City of Milford from the time of recordation. The failure to record the description or the plat within the~~

~~specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.~~

(b) 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 City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, may request the City Council to annex that certain territory in which they own property.

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

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than sixty (60) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code Title 22 §101. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation. (4) The annexation/rezoning application

shall also be referred to the Planning Commission for a public hearing and review and recommendation to City Council.

(4) Within sixty (60) days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation and zoning application. Following the public hearing and subject to the acceptance of the Plan of Services, the City Council may propose a resolution to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. The resolution shall contain a description of the territory proposed to be annexed, requested zoning and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed. If the resolution fails to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

(5) Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed,

which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

(6) Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

(7) At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

~~(8) Every citizen eighteen (18) years or older, who is a resident of the territory proposed to be annexed but who is not a property owner, shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote~~

only. Property owners in the area proposed to be annexed shall have only one (1) vote regardless of the number of parcels owned. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation.

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

[] For the proposed annexation

[] Against the proposed annexation

(10) The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until eight o'clock in the evening, 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.

(11) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver

the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, 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 part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.049(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter,

such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

The resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement. The resolution and ballots (if an election is required) annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to adoption of the final resolution by City Council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

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

Article II. Nominations and Elections.

(Previous Article IX)

2.01- City Elections (Previous 9.01)

(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council and in accordance with State law., ~~due notice given as required in 15 Del. C. Section 7553.~~

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election.~~

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *electors* of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

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

(d) Every person who resides within the City of Milford boundaries for at least thirty (30) days prior to the registration deadline or *natural persons owning* ~~owns~~ property within the City of Milford ~~prior for~~ *at least thirty (30) days prior to the registration deadline, and who are* ~~and who is~~ over the age of eighteen (18) years, shall be entitled to one vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. A *Corporation, Partnership, Limited Partnership or other legally created entity, is prohibited from registering and voting as a non-resident property owner unless property within the City is titled in an individual name.*

(e) *It is the responsibility of those* registered voters who own property in more than one Ward to ~~must~~ declare ~~within~~ *at least sixty (60)* ~~thirty (30)~~ days prior to the election which Ward they will vote in on the day of the election. *In the event that a person owns property(s) in the City in addition to their place of residency, he or she may vote only where he or she resides.*

(f) Upon the close of an annual municipal election or special election, the votes shall be counted and

read publicly. ~~and~~ The person having the highest number of votes, for each office, shall be declared duly elected in accordance with ~~15 Del. C. Section 7553~~ *State law*, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(g) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of *time as required by State law*. ~~at least ten (10) days following said election.~~

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

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

(j) Not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) ~~registered~~ *qualified* voters ~~resident~~ in the Ward in the City of Milford in which the candidate resides. Nominations for the Office of Mayor shall be filed with the City Manager not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) ~~registered~~ *qualified* voters ~~resident~~ in the City of

Milford.

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter.~~

2.02- *Emergency election postponement; declaration.*

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event. Once issuance of the declaration, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

2.03- *Absentee Ballot Procedures* (Previous 9.02)

Absentee voting in the City of Milford is in accordance with ~~15 Del. C. Section 7570-7585~~ State law. ~~The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum.~~

~~6.03- Council Ballots:~~

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

2.04- *VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS* (Previous 9.06)

(A) *VOTING*

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

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

~~6.04- Watchers And Challengers~~

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots.~~

~~6.05- 2.05- Ballots For Ordinances And Charter Amendments (Previous 9.05)~~

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

~~6.06 - Voting Machines.~~

~~2.06 VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS (Previous 9.06)~~

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

~~6.07- 2.07- Council Districts; Adjustment Of Districts (Previous 9.07)~~

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

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

(c) Report; Specifications. By the first day of January *of the second year following the decennial census of every tenth year from the adoption of this Charter*, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

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

(2) Each district shall contain as nearly as possible the same number of qualified voters ; ~~determined from the registration for the last statewide general election, but~~ *AND* districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the *City* Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that *the summary, including both the map and descriptions of the recommended districts, must be published in two newspapers of general circulation in the City of Milford, no less than one month prior to its adoption* .~~if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts.~~

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

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

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall

supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

ARTICLE III. Powers of the City – Council and Mayor (Previous Article II & Article IV)

3.01- Enumerated Powers ~~Powers of the City~~ (Previous 2.01)

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

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

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

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

(2) A contract for professional services.

(3) No contract shall be made by Council for any purpose, the contract price of which is in excess of \$30,000 without public competitive bidding; and

~~(3) No contract shall be made by Council for any purpose, the A contract price of which is in excess less than of Thirty Thousand Dollars (\$30,000).~~

~~(3) A contract which is less than Thirty Thousand Dollars (\$30,000). Such a contract shall not be for a portion of a project or proposal that would otherwise require bidding. In other words, the aggregate amount involved must be less than Thirty Thousand Dollars (\$30,000).~~

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

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *in accordance with the provision of Section H Article XI of this Charter.* ~~a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council, provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

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

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

3.02- Construction (Previous 2.02)

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

3.03- Intergovernmental Relations (Previous 2.03)

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

3.04- Notice of Action (Previous 2.04)

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property

by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

3.05- Investigations (Previous 4.08)

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~\$100.00~~ **\$500.00**, or by imprisonment for not more than ten (10) days, or both.

3.06 - Independent Audit (Previous 4.09)

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

3.07 – Mayor - General Powers (Previous 5.01)

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee

shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. *The Mayor may appoint such committees as he deems necessary for the proper administration of City Council. ~~Council members~~ Councilpersons may request in writing to the Mayor that an item be placed on a future agenda during the next Correspondence item on a meeting agenda and at that meeting, a majority of Council may determine whether or not the item should be placed on a future agenda.*

3.08 - Vice Mayor (Previous 4.01 & 5.01)

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. While serving in the place of the Mayor, the Vice Mayor shall be permitted to vote as a member of City Council only in the case of a tie.

3.09 - General Powers and Duties (Previous 4.03)

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

Article IV. Council Government – *Composition, Qualifications, Vacancies and Procedure*

(Previous Article III & Article IV)

4.01- Composition of Government (Previous 3.02)

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the Council, consisting of a Mayor and eight (8) ~~Council members~~ Councilpersons. Whenever the word “Mayor” is used, it shall refer solely to the Mayor. Whenever the word “Council” is used it shall refer to the eight (8) ~~Council members~~ Councilpersons.

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more

than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward. ~~Only qualified registered voters of the City, meeting the qualifications for Mayor and City Council as outlined in Section 3.03, shall be eligible to hold the office of Councilperson or Mayor.~~ The Mayor and Councilpersons shall each serve for a term of two years.

4.02 Annual Organizational Meeting (Previous 4.01)

At ~~7:30~~ seven o'clock (7:00) p.m., on the *second* Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. ~~At said meeting, the Council shall organize by a majority vote of the entire Council and elect a Vice-Mayor, who shall be a member of the Council.~~

4.03 - Compensation and Expenses (Previous 4.02)

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

4.04- Prohibitions (Unchanged)

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

(b) *Appointments and removals.* Neither the *Mayor*, Council nor any of its members shall in any manner

dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the *Mayor or Council* may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration.* Except for the purposes of inquiries and investigations under Section 2.08 (incorrect section) 4.08, the *Mayor or Council* or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the *Mayor or Council* nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- Vacancies, Forfeiture of Office; Filling of Vacancies (Unchanged)

(a) *Vacancies.* ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.~~

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

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

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

~~(c) *Filling of Vacancies.* If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The~~

~~special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII.~~

~~Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.~~

(c) Filling of Vacancies. If a vacancy occurs in the Council and the remainder of the unexpired term is less than three (3) months, the vacancy shall be filled in the next general election. If a vacancy occurs in the Council and the remainder of the unexpired term is less than six (6) months but more than three (3) months, the Council may within 45 days of the vacancy occurring, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than six (6) months, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06- Qualification for Mayor and City Council (Previous 3.03)

~~No person shall be eligible for election as Mayor or as a member of Council unless they have been a resident of the State of Delaware and the City for thirty (30) days preceding the day of the election, and are over the age of eighteen years prior to the day of the election. Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

(a) No person shall be eligible for election as Mayor unless he or she is a citizen of the United States of America, a bona fide resident of the City of Milford and has continuously resided therein for a period of one year preceding the day of the election, is over the age of eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

(b) No person shall be eligible for election as a City Council member unless he or she is a citizen of the

United States of America, a bona fide resident of the Ward in the City of Milford where they are seeking election and has continuously resided therein for a period of one year preceding the day of the election, is over the age of eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

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

~~(d) If a Councilmanmember files and runs for Mayor, whether or not they are elected to said office, the term as Councilman shall automatically expire on the second Monday following the date of the election, and if they have a year remaining on their term, then their office as Council shall be filled at the same annual election in which they have filed to run for the Office of Mayor—to be determined by City Council, and is elected before his or her Council term has expired, the elected Mayor's Council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.~~

4.07- Judge of Qualifications (Previous 4.06)

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

4.08 - Procedure (Previous 4.10)

(a) Meetings. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held in compliance with State law and may be on the call of the Mayor or of four or more ~~members, whenever practicable, upon no less than twelve (12) hours' notice to each member.~~ All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter permitted by State Law ~~which would tend to defame or prejudice the character or reputation of any person.~~

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

(c) Voting. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 4.05(c) ~~2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

4.09 - Action Requiring an Ordinance (Previous 4.11)

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

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

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

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

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

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

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

(h) Amend or repeal any ordinance previously adopted.

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

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

4.10 - Ordinances in General (Previous 4.12)

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption.

No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be “The City of Milford hereby ordains...” Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

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

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

(d) “Publish” Defined. As used in this section, the term “publish” means to print in one or more newspapers of general circulation in the City:

(1) A brief summary of the Ordinance, the ordinance or a brief summary thereof, and

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

4.11 - Emergency Ordinances (Previous 4.13)

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection ~~5.09(b)~~ 6.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except one made pursuant to Subsection 6.09 (b), ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.12- Codes of Technical Regulation (Previous 4.14)

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

(b) The requirements of Section ~~2.12~~ 4.10 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection ~~2.15(a)~~ 4.13(a).

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

4.13 - Authentication and Recording, Codification Printing (Previous 4.15)

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

(b) Codification. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

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

ARTICLE V. *Administration and Appointees* (Previous Article III & VI)

5.01 - Form of Government (Previous 3.01)

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

5.02 - City Manager - Appointment; Qualifications, Compensation (Previous 6.01)

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council.

The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.

5.03 - City Manager - Removal (Previous 6.02)

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

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

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

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

5.04 - Acting City Manager (Previous 6.03)

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

5.05 - Powers and Duties of the City Manager (Previous 6.04)

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

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

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

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

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

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

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

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

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

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

5.06 - City Clerk - Appointment and Duties (Previous 4.07)

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

5.07 - City Solicitor (Previous 7.02)

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

5.08 - Police Department (Previous 7.03)

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

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

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

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

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

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not

earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

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

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

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

(d) The Chief of Police shall:

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

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

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

5.09 - City Holding Cells ~~CITY JAIL~~ (Previous 7.04)

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

5.10 - City Alderman (Previous 7.05)

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

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

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

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

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

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

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

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

5.11 - Finance Department (Previous 7.06)

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager.

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

5.12 - Planning Department (Previous 7.07)

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

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

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

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

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

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

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

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

5.13 - City Planning Commission (Previous 7.08)

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford. The City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

5.14 – Board of Adjustment (Previous 7.11)

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall, by ordinance, establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Article VI. Financial Procedures (Previous Article VIII)

6.01- Fiscal Year (Previous 8.01)

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

6.02- Submission of Budget Date (Previous 8.02)

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

6.03- Budget Message (Previous 8.03)

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

6.04- Operating Budget (Previous 8.04)

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

comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

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

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

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

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

6.05- Capital Program (Previous 8.05)

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program at the time the annual budget is submitted to City Council as defined in Section 8.02. ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

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

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

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

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

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

6.06- Council Action On Operating Budget (Previous 8.06)

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

6.07- Council Action On Capital Program (Previous 8.07)

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

6.08- Public Records (Previous 8.08)

Copies of the budget and the capital program as adopted *for the fiscal year* shall be public records and shall be made *are* available to the public *through the Freedom of Information (FOIA) and the* ~~at suitable places~~ *City of Milford website* ~~in the City~~.

6.09- Amendments After Adoption (Previous 8.09)

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

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may *exercise short term borrowing authority as provided in Section 11.07 of this Charter.* ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.~~

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without

delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

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

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

6.10- Lapse Of Appropriations (Previous 8.10)

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

6.11- Administration Of Budget (Previous 8.11)

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

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

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

Article VII. Taxation, Assessors And Assessment Of Taxes (Previous Article X)

7.01- (Previous 10.01) Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

7.02- (Previous 10.02) It shall be the duty of the City Manager each year to include supplemental assessments prepared by the assessor(s) for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment. ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment. In the year that A SUPPLEMENTAL ASSESSMENT IS MADE, a scrap assessment is made, the General Assessment then in force as supplemented or modified by the scrap supplemental assessment, shall constitute the assessment for the year.~~

7.03- (Previous 10.03) The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

7.04- (Previous 10.04) The real property of the City Assessor(s) shall be assessed by the Council.

7.05 - The City Tax Assessor shall notify the property owner in writing of any change in assessment.

7.06- (Previous 10.05) The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ adjusted by the ~~scrap supplemental~~ assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the

day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

7.07- (Previous 10.06) At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

7.08 - (Previous 10.07) The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City. If any taxable fails or neglects to perfect his or her appeal to the Board of Revision and Appeal, he or she shall be liable for the tax for such year as shown by the assessment lists.

7.09- (Previous 10.08) The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

7.10- (Previous 10.09) The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

7.11- (Previous 10.10) The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

7.12- (Previous 10.11) (a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred

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

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

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

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. The City Manager, in the name of the City of Milford, may institute suit before any Justice of the Peace within Kent County or Sussex County, or before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.

(e) In addition, the City Manager, acting on behalf of the City, may pursue the sale of the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax and with the following conditions:

(1) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(2) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount

remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

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

To the Prothonotary for filing and recording Petition

For filing and recording return of sale

To the City Manager for preparing certificate

For making sale of land

For preparing and filing return

For posting sale bills

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

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

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

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

(h) The provisions of this Section ~~10.11~~ 7.12, other than the provisions of subsection (b) of this Section ~~10.11~~ 7.12, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article ~~XIA~~ IX of this Charter, provided that all references in this Section ~~10.11~~ 7.12 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district.

7.13- Real Estate Transfer Tax (Previous 10.12)

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

7.14- Assessment, Payment, And Collection Of Taxes For New Construction (Previous 10.13)

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

Article VIII. Borrowing Of Money And Issuance Of Bonds (Previous Article XI)

[The City Manager recommends adding an appropriate Bond Cap in order to more easily move forward with large projects; Mr. Spillane prefers the people make that choice and recommends the language remain as is currently stated. Council will make final determination.]

8.01 - (Previous 11.01) The City of Milford may borrow money and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness **up to**

\$ _____ % of assessed value of real property} pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

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

8.02 - (Previous 11.02) This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

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

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

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

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

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

8.03 - (Previous 11.03) The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the

City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

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

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

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

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

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

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

8.04 - (Previous 11.04) It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

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

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special

Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election, the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "For the Proposed Borrowing" and upon the other half of said ballot shall be printed the words, "Against the Proposed Borrowing", and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

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

8.05 - (Previous 11.05) The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

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

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

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

8.06- Refinancing Of Municipal Bonds (Previous 11.06)

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

8.07- Short Term Borrowing (Previous 11.07)

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

The City Manager feels that the word “anticipative” is too restrictive and this allows Council to make a decision without a Special Election. Removing “anticipative” gives the City more flexibility if necessary. Anything over \$2.9 million (tax billing) will still require a Special Election.

Article IX. Tax Increment Financing and Special Development Districts (Previous Article XIA)

9.01 - Tax Increment Financing and Special Development Districts (Previous 11A.01)

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

9.02 – Non Recourse (Previous 11A.02)

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property.

Article X. Severance (Previous Article XII)

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

Article XI. Transitional Provisions (Previous Article XIII)

11.01- Officers And Employees (Previous 13.01)

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

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this

Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he *or she* shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

11.02- Departments, Offices And Agencies (Previous 13.02)

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

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

11.03- Pending Matters (Previous 13.03)

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

11.04- State And Municipal Laws (Previous 13.04)

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

11.05- Survival Of Powers And Validations Sections (Previous 13.05)

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

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

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

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

Article XII. Repealer (Previous Article XIII - Subparagraph)

This Act shall operate to amend, revise and consolidate Chapter 726, Volume 57 Laws of Delaware entitled “An Act Changing the Name of ‘The Town of Milford’ to ‘The City of Milford’ and establishing a Charter therefore, as amended in its entirety and by establishing a new Charter for the City of Milford to read as follows: The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in any way invalidate the remaining provisions of this Act.”

The Charter shall become effective upon signature of the Governor.

Synopsis

The Charter replaces the City of Milford Charter in its entirety. A Charter Committee, the Mayor and City Council with participation from the public worked for over a year to reorganize and revise their charter. This bill is a result of that effort and the following summarizes those changes from the previous charter.

A table of Contents delineating the Articles has been included at the outset.

The Charter has been reorganized by changing the order of the Articles and moving various sections to more appropriate Articles. The organization is attempted to be more logical. As the articles appear the territory and annexation procedures appear, then the election process, then the powers of the city, then the form of government, then the administration, followed by financial articles involving taxing and borrowing. The existing Charter had two articles for the power of the city and had the structure article between them. The existing charter had a separate article for the City Manager and other administrative appointments. Those appointed offices have been combined in one article. The election article has been moved from Article IX to Article II.

The most significant substantive changes are as follows:

DELAWARE STATE SENATE

145th GENERAL ASSEMBLY

Senate Bill #

AN ACT TO RE-INCORPORATE THE CHARTER OF THE CITY OF MILFORD BY AMENDING AND SUBSTITUTING CHAPTER 726, VOLUME 57 LAWS OF DELAWARE ENTITLED “AN ACT CHANGING THE NAME OF THE TOWN OF MILFORD TO “THE CITY OF MILFORD” AND ESTABLISHING A CHARTER THEREFORE” AS AMENDED RELATING TO GOVERNMENT, ADMINISTRATION, VOTING, AND ELECTIONS.

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

Section 1. Amend Chapter 726, Volume 57 Laws of Delaware entitled “An Act Changing the Name of ‘The Town of Milford’ to ‘The City of Milford’ and establishing a Charter Therefore’ as amended in its entirety and by establishing a new Charter for the City of Milford to read as follows:

“MILFORD CHARTER

<u>Table of Contents</u>	<u>Page</u>
Article I. Incorporation, Territory and Annexation	
Article II. Nominations and Elections	
Article III. Powers of the City – Council and Mayor	
Article IV. Council Government	
Article V. Administration and Appointees	
Article VI. Financial Procedures	
Article VII. Taxation, Assessors ad Assessment of Taxes	
Article VIII. Borrowing Of Money and Issuance of Bonds	
Article IX. Tax Increment Financing and Special Development Districts	
Article X. Severance	
Article XI. Transitional Provisions	

Article XII. Repealer

Article I. Incorporation, Territory and Annexation

1.01 - Incorporation

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

1.02 - Territorial Limits

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

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

1.03 - Wards

The City of Milford shall be divided into four Wards and an official map of the Wards shall be kept by the City Clerk pursuant to 1.02 herein.

(a) The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

(b) The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a

northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

(c) The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of Deep Branch and Business Route 1.

(d) The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the

northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street.

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

1.04 - Annexation

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

(1) All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, may request the City Council to annex that certain territory in which they own property. The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. The application shall also be referred to the Planning Commission for a public hearing and recommendation of the zoning district application for the property proposed for annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor

and City Council of Milford and the Planning Commission shall submit its recommendation on the zoning designation. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) Within 60 days of the recommendation by the Committee and the Planning Commission City Council shall hold a public hearing to consider the annexation and zoning application.

(4) Following the public hearing, the City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. Prior to the resolution being considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

(5) If the resolution shall receive a favorable vote for annexation, the City Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(b) 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 City of Milford by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property. The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.

(1) The Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford and shall refer the application to the Planning Commission for a public Hearing and recommendation of the proposed zoning designation. Not later than ninety (90) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford, and the Planning Commission shall submit its recommendation on the zoning designation. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore.

(2) Within 60 days of the recommendation by the Committee and the Planning Commission City Council shall hold a public hearing to consider the annexation and zoning application.

(3) After the public hearing, the City Council may propose a Resolution to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory.

a. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council.

b. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

c. The resolution shall contain a description of the territory proposed to be annexed and requested zoning and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

d. Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

e. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

f. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

g. Property owners in the area proposed to be annexed shall have only one vote regardless of the number of parcels owned. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[] For the proposed annexation

[] Against the proposed annexation

h. The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until Eight o'clock in the evening, 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.

i. Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, 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 part of the City of Milford from the time of

recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.049(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

The resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement. The resolution and ballots (if an election is required) annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference. An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the resolution or election adopted by City Council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

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

Article II. Nominations and Elections.

2.01- City Elections

(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council and in accordance with State law.

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

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

(d) Every person who resides within the City of Milford boundaries for at least thirty (30) days prior to the registration deadline or natural persons owning property within the City of Milford at least thirty (30) days prior to the registration deadline, and who are over the age of eighteen (18) years, shall be entitled to one vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. A Corporation, Partnership, Limited Partnership or other legally created entity is prohibited from registering and voting as a non-resident property owner unless property within the City is titled in an individual name.

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

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

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

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

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

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

2.02 - Emergency election postponement; declaration.

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

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

2.03- Absentee Ballot Procedures

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

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

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

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

2.05 - Ballots for Ordinances and Charter Amendments

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

2.06 - Voting Machines for Referenda and Annexation Elections

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

2.07- Council Districts; Adjustment of Districts

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

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

(c) Report; Specifications. By the first day of January of the second year following the decennial census, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

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

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

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

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

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

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

ARTICLE III. Powers of the City – Council and Mayor

3.01- Enumerated Powers

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

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

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

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

(2) A contract for professional services

(3) A contract which is less than Thirty Thousand Dollars (\$30,000). Such a contract shall not be for a portion of a project or proposal that would otherwise require bidding. In other words, the aggregate amount involved must be less than Thirty Thousand Dollars (\$30,000).

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

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk

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

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

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

3.02- Construction

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

3.03- Intergovernmental Relations

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

3.04- Notice of Action

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

3.05- Investigations

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

3.06 - Independent Audit

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

3.07 – Mayor - General Powers

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and

shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. The Mayor may appoint such committees as he deems necessary for the proper administration of City Council. The Mayor shall manage the agenda. Councilpersons may request in writing to the Mayor that an item be placed on a future agenda during the next Correspondence item on a meeting agenda and at that meeting, a majority of Council may determine whether or not the item should be placed on a future agenda.

3.08 - Vice Mayor

At the annual organizational meeting, the Council shall also elect by a majority vote of the entire Council a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. While serving in the place of the Mayor, the Vice Mayor shall be permitted to vote as a member of City Council only in the case of a tie.

3.09 - General Powers and Duties

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

Article IV. Council Government – Composition, Qualifications, Vacancies and Procedure

4.01- Composition of Government

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

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

4.02 Annual Organizational Meeting.

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

4.03 - Compensation and Expenses

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

4.04- Prohibitions

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

(b) Appointments and removals. Neither the Mayor, Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the Mayor or Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

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

4.05 - Vacancies, Forfeiture of Office; Filling of Vacancies

(a) Vacancies.

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

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

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

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

governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06 - Qualification for Mayor and City Council

(a) No person shall be eligible for election as Mayor unless he or she is a citizen of the United States of America, a bona fide resident of the City of Milford and has continuously resided therein for a period of one year preceding the day of the election, is over the age of eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

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

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

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

be allowed to run for Mayor? Should you be allowed to run for two offices at one time?]

4.07- Judge of Qualifications

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

4.08 - Procedure

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

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

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

4.09 - Action Requiring an Ordinance

The Council is hereby vested with the authority to enact ordinances or resolutions (resolution includes actions taken upon motion whether by roll call or voice vote and whether or not the Resolution has been prepared as a writing) relating to any subject within the powers and functions of the City, or

relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

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

- (a) Adopt or amend an administrative code;
- (b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (c) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;
- (d) Grant, renew or extend a franchise;
- (e) Regulate the rate charged for its services by a public utility;
- (f) Authorize the borrowing of money;
- (g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.
- (h) Amend or repeal any ordinance previously adopted; and
- (i) Change of zone or conditional use of land.

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

4.10 - Ordinances in General

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be “The City of Milford hereby ordains...” Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or

subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

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

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

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

- (1) A brief summary of the Ordinance, and
- (2) The places where complete copies of it have been filed and the times when they are available for public inspection.

4.11 - Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 6.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it

may specify. Every emergency ordinance, except one made pursuant to Subsection 6.09(b), shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.12 - Codes of Technical Regulation

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

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

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

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

4.13 - Authentication and Recording, Codification Printing

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

(b) Codification. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for

free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

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

ARTICLE V. Administration and Appointees

5.01 - Form of Government

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

5.02 - City Manger - Appointment; Qualifications and Compensation

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

5.03 - City Manager - Removal

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

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

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

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

5.04 - Acting City Manager

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

5.05 - Powers and Duties of the City Manager

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

(a) He or she shall appoint, and when he deems it necessary for the good of the service, suspend or remove City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He

or she may authorize any administrative officer, who is subject to his direction and supervision, to exercise these powers with respect to subordinates in that officer's department, office or agency.

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

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

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

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

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

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

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

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

5.06 - City Clerk - Appointment and Duties

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

5.07 - City Solicitor

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

5.08 - Police Department

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

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

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

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

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of

Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

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

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

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

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

(d) The Chief of Police shall:

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

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

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

5.09 - City Holding Cells

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

5.10 - City Alderman

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

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

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

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

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

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to

the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

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

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

5.11 - Finance Department

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

5.12 - Planning Department

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

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

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

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

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

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

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

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

5.13 - City Planning Commission

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford. The City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

5.14 – Board of Adjustment

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall, by ordinance, establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Article VI. Financial Procedures

6.01- Fiscal Year

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

6.02- Submission of Budget Date

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

6.03- Budget Message

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

6.04- Operating Budget

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

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

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

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

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

6.05- Capital Program

(a) Submission to Council. The Manager shall prepare and submit to the Council a five-year capital program at the time the annual budget is submitted to City Council as defined in Section 8.02.

(b) Contents. The capital program shall include:

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

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

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

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

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

6.06- Council Action on Operating Budget

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

6.07- Council Action on Capital Program

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

6.08- Public Records

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

6.09- Amendments after Adoption

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

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available un-appropriated revenues to meet such appropriations, the Council may exercise short term borrowing authority as provided in Section 11.07 of this Charter.

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

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

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

and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

6.10- Lapse Of Appropriations

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

6.11- Administration of Budget

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

b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his\her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he or she shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly

by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Article VII. Taxation, Assessors and Assessment of Taxes

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

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

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

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

7.05 - The City Tax Assessor shall notify the property owner in writing of any change in assessment.

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

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

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

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

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

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

7.12 - (a) Not later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the City Clerk commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

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

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

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. The City Manager, in the name of the City of Milford, may institute suit before any Justice of the Peace within Kent County or Sussex County, or before the Alderman of the said City, or in the Court of Common Pleas in and for Kent or Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.

(e) In addition, the City Manager, acting on behalf of the City, may pursue the sale of the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax and with the following conditions:

(1) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

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

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

- To the Prothonotary for filing and recording Petition
- For filing and recording return of sale
- To the City Manager for preparing certificate
- For making sale of land
- For preparing and filing return
- For posting sale bills

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

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

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

Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

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

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

7.13 – Real Estate Transfer Tax

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

7.14- Assessment, Payment, and Collection of Taxes For New Construction

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

Article VIII. Borrowing of Money and Issuance of Bonds

[The City Manager recommends adding an appropriate Bond Cap in order to more easily move forward with large

projects; Mr. Spillane prefers the people make that choice and recommends the language remain as is currently stated. Mayor suggested placing a cap on borrowing to establish a point when a referendum is required. Council will make final determination.]

8.01 - The City of Milford may borrow money and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness *[up to \$____, ____% of assessed value of real property]*

value pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

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

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

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

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

(c) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage

system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore;

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

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

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

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

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

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

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

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

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

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

8.04 - It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a

newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

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

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

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election, the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "For the Proposed Borrowing" and upon the other half of said ballot shall be printed the words, "Against the Proposed Borrowing", and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he

wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

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

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

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

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity

thereof together with the interest due or which may hereafter become due thereupon and, in a proper case or as recommended by bound counsel, it shall also provide a sinking fund therefore.

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

8.06- Refinancing Of Municipal Bonds

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

8.07- Short Term Borrowing

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

Article IX. Tax Increment Financing and Special Development Districts

9.01 - Tax Increment Financing and Special Development Districts

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth

in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

9.02 – Non-Recourse

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property.

Article X. Severance

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

Article XI. Transitional Provisions

11.01- Officers and Employees

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

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

11.02- Departments, Offices and Agencies

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

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

11.03- Pending Matters

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

11.04- State and Municipal Laws

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

11.05- Survival of Powers and Validations Sections

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

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

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

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

Article XII. Repealer

This Act shall operate to amend, revise and consolidate Chapter 726, Volume 57 Laws of Delaware entitled “An Act Changing the Name of ‘The Town of Milford’ to ‘The City of Milford’ and establishing a Charter therefore’ as amended in its entirety and by establishing a new Charter for the City of Milford to read as follows: The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in any way invalidate the remaining provisions of this Act.”

Section 2. The Charter shall become effective upon signature of the Governor.

Synopsis

The Charter replaces the City of Milford Charter in its entirety. A Charter Committee, the Mayor and City Council with participation from the public worked for over a year to reorganize and revise their charter. This bill is a result of that effort and the following summarizes those changes from the previous charter.

A table of Contents delineating the Articles has been included at the outset.

The Charter has been reorganized by changing the order of the Articles and moving various sections to more appropriate Articles. The organization is attempted to be more logical. As the articles appear the territory and annexation procedures appear, then the election process, then the powers of the city, then the form of government, then the administration, followed by financial articles involving taxing and borrowing. The existing Charter had two articles for the power of the city and had the structure article between them. The existing charter had a separate article for the City Manager and other administrative appointments. Those appointed offices have been combined in one article. The election article has been moved from Article IX to Article II.

The most significant substantive changes are as follows:



Sussex County Association of Towns

P.O. Box 589 Georgetown, DE 19947

- Town of Bethany Beach*
- Town of Bethel*
- Town of Blades*
- Town of Bridgeville*
- Town of Dagsboro*
- Town of Delmar*
- Town of Dewey Beach*
- Town of Ellendale*
- Town of Fenwick Island*
- Town of Frankford*
- Town of Georgetown*
- Town of Greenwood*
- Town of Henlopen Acres*
- Town of Laurel*
- City of Lewes*
- City of Milford*
- Town of Millsboro*
- Town of Millville*
- Town of Milton*
- Town of Ocean View*
- City of Rehoboth Beach*
- City of Seaford*
- Town of Selbyville*
- Town of Slaughter Beach*
- Town of South Bethany*
- Sussex County Council*

MEETING NOTICE

LOCATION: DiFebo's Bistro on the Green
Bear Trap Dunes, Ocean View

DATE: Wednesday, March 3, 2010

TIME: 6:00 p.m. – Social
6:30 p.m. – Dinner

HOST: Town of Millville

PROGRAM:

Dennis Schrader, Attorney –
Municipal police forces providing services outside of their boundaries.

COST: \$25.00

MENU: Pasta Stations

- Penne Pasta
- Red and White Sauce
- Sautéed Onions
- Sautéed Mushrooms
- Sautéed Green Peppers
- Fresh Garlic
- Grilled Chicken

- Chicken Marsala
- Garden Salad
- Italian Bread

Dessert: Strawberry Shortcake

For reservations, please call Donna at Millville Town Hall at 539-0449 no later than THURSDAY, FEBRUARY 25TH.

Please make checks payable to the Town of Millville.