

**Arden****Name and General Powers****Section 1**

- (a) The inhabitants of the Village of Arden, in New Castle County, Delaware, and their successors within the limits hereinafter prescribed or hereafter established, are hereby constituted, created and established a municipal corporation and body politic forever, by the name and style of the "Village of Arden", hereinafter "the Village".
- (b) Under that name they shall have perpetual succession; may have and use a corporate seal, which may be altered, changed or renewed at pleasure; may sue and be sued; for any public, municipal educational or charitable purpose, may acquire by gift, grant, purchase, lease, demise, bequest or otherwise hold, real and personal property within and without the limits hereinafter prescribed; for the common benefit may dispose of real and personal property owned or held by it; and shall possess in addition to the powers expressly enumerated or specifically mentioned in this Act, all powers, which under the Constitution of the State of Delaware, it is now or in the future may be, lawful for this Act to enumerate. All powers of the Village, whether expressed or implied, shall be exercised as prescribed by this Act. If no procedure or manner of exercise be prescribed herein the same shall be exercised as prescribed by an appropriate ordinance or resolution of the Town Assembly of Arden.

**Territorial Limits****Section 2**

- (a) The corporate limits of the Village are hereby established and declared to be as follows:

BEGINNING at a point on the southeasterly right of way line or Marsh Road (at 60 feet wide), said point of Beginning being in the center line of the West Branch of Naamans Creek and a corner for lands now or formerly of the Trustees of Ardentown; thence from said point of Beginning and along the said center line of the West Branch of Naamans Creek by the various courses thereof in a generally southeasterly direction and along line of said lands now or formerly of the Trustees of Ardentown, lands now or formerly of the Albert T. Hanby Foundation, along the southwesterly boundary line of Highland Woods, along line of lands now or formerly of Stockdale Corp., and along the southwesterly boundary line of Indian Field, 3900±feet to a point; thence along the northwesterly line of Ardentown, South 62°-08'-05" West, 2291.79 feet to a point in the center line of Grubb or Harvey Road, said course crossing over an existing monument set on the southwesterly side of Orchard Road (at 38 feet wide) and crossing Apple Tree Lane and Millers Road (at 38 feet wide) ; thence along the said center line of Grubb or Harvey Road, North 20°-05'-50" West, 5.75 feet to a point; thence along line of lands now or formerly of Alfred Strickler the three following described courses and distances: (1) South 63°-05'-40" West, and passing through a 48 inch tulip poplar tree, 86.89 feet to a point; (2) South 60°-31'-00" West, 127.20 feet to a point; and (3) South 58°-45'-00" West, 131.90 feet to a point, a corner for said lands now or formerly of Alfred Strickler and lands known as Ardencroft; thence along the northwesterly line of said lands known as Ardencroft and lands now or formerly of the Ardencroft Association known as the Mushroom House Lot, South 57°-38'-50" West, 1356.16 feet to an existing pipe in the northeasterly line of lands now or formerly of Benjamin J. Steinbery et ux; thence thereby North 25°-04'-24", West, 1354.00 feet to a point, a corner for lands now or formerly of Samuel B. Eure et ux; thence along the northeasterly line of said lands now or formerly of Samuel B. Eure et ux, North 25°-00'-25" West, 777.10 feet to a monument located on the said southeasterly right of way line of Marsh Road; thence along the said southeasterly right of way line of Marsh Road the three following described courses and distances: (1) North 58°-31'-13" East, 758.02 feet to a point, said course crossing said Grubb or Harvey Road; (2) North 56°-54'-59" East, 1062.84 feet to a point of curvature; and (3) northeasterly along a curve to the left having a radius of 984.93 feet. an arc distance of 317.89 feet to a point in the said center line of the West Branch of Naamans Creek and a corner for said lands now or formerly of the Trustees of Ardentown and the point and place of Beginning, said course being distant by a chord of North 47°-40'-12" East, 316.51 feet from the last described point. CONTAINING within such metes and bounds, and including Grubb or Harvey Road, 159.00 acres of land be the same more or less...

- (b) The Town Assembly may, at any time hereafter, cause a survey and plot of the village to be made, and said plot or any supplement thereto, when so made and approved by the Town Assembly, signed by the Secretary

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of the Town Assembly, who shall affix thereto the municipal corporate seal of the Village, and upon being recorded in the office of the Recorder of Deeds of the State of Delaware in and for New Castle County, shall be the record thereof, and such record, or a duly certified copy thereof, shall be evidence in all Courts of Law and Equity of this State.

### Definitions

#### Section 3

As used in this Act

- (a) Resident shall mean a person, male or female, above the age of eighteen (18) years, who shall have resided in the Village for a period of six consecutive months immediately preceding each referendum or each meeting of the Town Assembly of Arden held pursuant to this Act.
- (b) General referendum shall mean an election or vote of the residents of the Village at which the vote of a majority of the residents of the Village shall be necessary for the passage or approval of any matter or the election of any candidate voted upon thereat, unless otherwise expressly provided in this Act.
- (c) Trustee shall mean a person serving as Trustee under a certain Indenture made the 31st day of January, 1908 wherein the lands described in Section 2 hereof, were conveyed upon certain trusts.
- (d) Leaseholder shall mean a person who leases a portion of the lands described in Section 2 hereof, from the Trustees serving under said Indenture. 58 **Del. Laws**, c. 91

### Structure of Government

#### Section 4

The government of the Village and the exercise of all powers conferred by this Act, except as otherwise provided herein, shall be vested in the Town Assembly of the Village of Arden, referred to herein as the "Town Assembly". The Town Assembly shall consist of all residents of the Village.

### Meetings of the Town Assembly

#### Section 5

- (a) Regular meetings of the Town Assembly shall be held on the fourth Monday of January, March, June and September of each year after the approval of this Act at the Gild Hall in the Village or other suitable public place in the Village. Written notice of the time, date and place of all regular meetings of the Town Assembly shall be mailed by the Secretary of the Town Assembly to all residents of the Village at least 5 days prior thereto.
- (b) Special meetings of the Town Assembly shall be called by the Secretary of the Town Assembly (1) upon the written request of 25 residents, provided that such request shall state the purpose for calling such meeting, which purpose shall be set forth in the notice of such meeting; or (2) upon the affirmative vote of a majority of residents in attendance at a regular or special meeting of the Town Assembly provided that any motion for the calling of a special meeting shall state the purpose therefor, which purpose shall be set forth in the notice thereof. Notice of the time, date and place of any special meeting of the Town Assembly shall be mailed to all residents at least 5 days before the date thereof.
- (c) At all meetings of the Town Assembly thirty-five (35) residents shall constitute a quorum for the enactment of all ordinances, the adoption of all resolutions and motions, and the transaction of all business properly before the Town Assembly.
- (d) Each resident attending a meeting of the Town Assembly shall have one vote on each matter brought before such meeting. The Secretary of the Town Assembly shall take the yeas and nays and, unless otherwise specified in this Act, a majority of the yeas shall be sufficient to pass all ordinances, resolutions and motions at any meeting of the Town Assembly and to transact all business properly brought before the meeting.
- (e) No ordinance of the Village shall be voted upon by the Town Assembly unless submitted to the Town Assembly in writing and read at the two consecutive meetings, whether regular or special, next preceding the meeting at which such ordinance shall be voted upon.

- (f) The Town Assembly shall determine its own rules and order of business and shall keep a journal of its proceedings and the yeas and nays which shall be taken upon the passage of every ordinance and resolution.
- (g) The Town Assembly shall elect a resident to serve as Chairman of the Town Assembly who shall preside at all meetings thereof. The Chairman shall serve for a term of one (1) year or until his successor is duly elected by the Town Assembly in accordance with the provisions hereof. The signature, certifications or attestation of the Chairman of the Town Assembly to any document pertaining to the affairs of the Village called for by any act, statute, rule or regulation of the State of Delaware or any agency thereof shall be good and sufficient compliance therewith, notwithstanding that such act, statute, rule or regulation designates such document to be signed, certified or attested by the Mayor, City Manager, President of Council or like designated chief executive of an incorporated municipality of the State of Delaware.
- (h) The Town Assembly shall elect a resident to serve as Secretary of the Town Assembly for a term of one year or until his successor is duly elected by the Town Assembly in accordance with the provisions hereof. The Secretary shall have charge and custody of the books, journal, records, papers and other effects of the Village and shall keep the same in a safe and secure place. He shall keep a full and complete record of all of the transactions of the Town Assembly. He shall file and keep in a safe place the seal of the Village and all papers and documents arising out of the proceedings of the Town Assembly and relative to the affairs of the Village. He shall deliver the same to his successor in office. He shall attest the seal of the Village when authorized by the Town Assembly and shall perform such duties and have such other powers as may be prescribed by ordinance. All books, records and journals of the Village in the custody of the Secretary may, in the presence of the Secretary, be inspected by any resident, Trustee or leaseholder of the Village desiring legitimate information at any time or times as may be convenient. The compensation of the Secretary for his duties as such, shall be determined by the Town Assembly.

#### **Committees of the Town Assembly**

##### **Section 6**

- (a) The Town Assembly may elect such officials, including a Treasurer, and such agents, committees and commissioners of the Village which the Town Assembly may deem proper and necessary for the management of the Village and for the operation and enforcement of this Act and of any ordinances and resolutions adopted hereinunder. Any person so elected shall be a resident of the Village and shall serve at the pleasure of the Town Assembly but in no event longer than two years unless re-elected.
- (b) All persons presently serving on committees of the Town Assembly shall continue in office until their successors are duly elected in the manner herein provided.

#### **Board of Assessors**

##### **Section 7**

- (a) The Board of Assessors shall consist of seven (7) residents elected in the manner herein provided: Candidates for the Board of Assessors shall be nominated by the Town Assembly at its regular September meeting of each year. No later than 45 days after such nomination, the Registration Committee of the Village shall mail ballots containing the names of all nominees to each resident of the Village. The ballots shall be in such form as the Registration Committee shall prescribe and shall contain suitable boxes for marking the choices of the voters. Each resident shall return his marked ballot to the Registration Committee within 30 days after the mailing thereof. The Registration Committee shall tally the votes cast and report the results of the election at the first regular meeting of the Town Assembly following the election. The election and the result thereof shall be governed by the Hare System of Proportional Representation.
- (b) The members of the Board of Assessors shall serve for one year or until their successors are duly elected in accordance with the provisions of this Act.
- (c) The duties of the Board of Assessors shall consist of assessing the full rental value of leased lands in the Village. The Board shall conduct two hearings during May and June of each year which shall be open to all residents, Trustees and leaseholders of the Village. Notice of the time, date and place of each hearing shall be mailed to all residents, leaseholders and Trustees at least five (5) days before such hearing. The Board shall fix rules and regulations for the conduct of the hearings, provided that reasonable opportunity shall be afforded to all persons entitled to notice thereof to be heard at such hearings. The Board shall report its assessment rate to the regular June meeting of the Town Assembly.

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- (d) The Assessors shall, before assuming office, take an oath of office before any person qualified under the Laws of the State of Delaware, to administer oaths, which oath shall be in the following form: "I..... do solemnly swear (or affirm) that I will faithfully perform and discharge my duties as Assessor of Arden to the best of my ability and that I will as nearly as possible assess the full rental value for Arden lands as required by the Deed of Trust and the Leases of Arden."
- (e) The assessment rate determined by the Board for the assessment of Arden lands shall be final and conclusive, provided that any leaseholder of the Village shall have the right to appeal such determination by submitting a proposed assessment rate to the Town Assembly at its regular September meeting. In the event that such proposed rate shall receive the affirmative vote of two-thirds of the residents voting at such meeting, such proposed rate and the rate determined by the Board shall both be submitted to a general referendum of the residents of the Village. The referendum shall be conducted by the Registration Committee. The rate approved by a majority of residents shall be the rate in effect until redetermined in the manner herein provided.
- (f) The Board of Assessors shall determine the applicability of differential factors to the application of the assessment rate upon leaseholds in the Village. The Board shall afford leaseholders the opportunity to be heard upon any question arising thereunder.
- (g) It shall be the duty of the Board to keep and maintain a full and accurate record of its deliberations and proceedings, including all information and data considered in its determinations. Such record shall be open to the inspection of any Trustee, resident or leaseholder at any time or times as may be convenient. Upon the expiration of their term in office, the assessors shall deliver the same to their successors.

### Budget Committee

#### Section 8

- (a) The Budget Committee shall consist of five residents of the Village elected by the Town Assembly. Three members of the Committee shall be elected by the Town Assembly at its regular March meeting in each odd-numbered year following the approval of this Act. Two members of the Committee shall be elected by the Town Assembly at its regular March meeting in each even-numbered year following the approval of this Act. Each member, so elected, shall serve in office for two years or until his successor is duly elected.
- (b) The Budget Committee shall prepare a budget governing (1) the expenditure of all Village funds, the use and expenditure of which are not specifically governed by Federal, State or County laws, rules and regulations; and (2) the expenditure of all monies derived from the collection of ground rents, the lawful use and expenditure of which are now and hereafter subject to the approval and consent of the residents of the Village.
- (c) The budget prepared by the Committee shall be reported to the Town Assembly at its regular September meeting of each year. The Town Assembly may modify or amend all or any portion of the budget. The budget, with any amendments thereto, shall be approved by the Town Assembly and submitted to a general referendum of the residents of the Village. The referendum shall be conducted by the Registration Committee within 45 days after the regular September meeting of the Town Assembly. The Registration Committee shall mail ballots to all residents of the Village. The ballots shall contain suitable boxes for marking the approval or disapproval of the entire proposed budget and each item therein enumerated. No ballot shall be counted unless received by the Registration Committee on or before a date fixed by the Committee which shall in no event be less than fifteen (15) days from the date the Registration Committee mails the ballots to the residents of the Village. The budget, if approved by a majority of the residents of the Village, shall govern the use and expenditure of the monies therein specified for and during the fiscal year of the Village commencing March 25 next following the referendum.

### Registration Committee

#### Section 9

- (a) The Registration Committee shall consist of: (1) five residents of the Village elected by the Town Assembly. Two members of the Committee shall be elected by the Town Assembly at its regular March meeting in each odd-numbered year. Three members of the Committee shall be elected by the Town Assembly at its regular March meeting in each even-numbered year. Each member, so elected, shall serve in office for two years or until his/her successor is duly elected; and (2) the Senior Trustee of Arden and the Secretary of the Town Assembly. The Clerk of the Trustees shall be an ex-officio member of this committee.

- (b) The Registration Committee shall register all residents of the Village as defined in Section 3 of this Act and shall keep a full and accurate record thereof which shall set forth the date each resident establishes his residence. The registration record shall be conclusive evidence of the entitlement of the persons therein listed to vote at meetings of the Town Assembly and referenda held hereunder.
- (c) The Registration Committee shall supervise all referenda held hereunder and shall fix rules and regulations, not in consistent with the provision of this act, for the proper and orderly conduct thereof. The Registration Committee shall certify in writing to the Town Assembly and to the Trustees the results of all referenda held hereunder. 69 Del. Laws, c. 30

### **Vacancies**

#### **Section 10**

In case of vacancy created in any office established under the provisions of this Act and the doings of the Town Assembly by reason of death, resignation, loss of residence in the Village, conviction of a felony or otherwise, the Town Assembly, at the earliest possible meeting, shall elect some suitable person to serve the unexpired term of such office.

### **Powers and Ordinances**

#### **Section 11**

The Village shall have all powers possible for the Village to have under the Constitution and laws of Delaware as fully and completely as though they were specifically enumerated by this Act. In furtherance thereof, the Town Assembly is hereby vested with the authority to enact ordinances and adopt resolutions relating to any subject within the powers or functions of the Village, or relating to the government of the Village, its peace and order, its sanitation, beauty, the health, safety, convenience and comfort of its population, and the protection and preservation of 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 or resolutions on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated. Notwithstanding any statute, act or law of the State of Delaware to the contrary, the power to acquire and/or to vacate the use of lands, tenements, personalty, property, easements, rights of way or any interest in property within the limits of the Village, as described in Section 2 hereof, by way of condemnation and eminent domain shall be and is vested exclusively in the Town Assembly; provided, however, that the Town Assembly may, but is not obliged to do so, consent to the exercise of any such power by an agency, commission or department of the State of Delaware for any lawful purpose.

The Village 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 any one or more states or civil divisions or agencies thereof, including the government of New Castle County, or the United States or any agency thereof.

It shall be the duty of the Town Assembly, at a reasonable time or times, to compile the ordinances, codes, orders and rules of the Town Assembly of the Village. The Town Assembly shall have a reasonable number of copies printed for the use of the officials of the Village and for public information. From time to time, upon the enactment of new ordinances, codes, rules and regulations, or upon the enactment of amendments to the same, the Secretary of the Town Assembly shall enroll the same in the journal of the Town Assembly and keep copies of the same in a book to be provided for that purpose so that the same may be readily examined.

### **Enforcement, Fines and Penalties**

#### **Section 12**

- (a) The Justices of the Peace sitting (whether regularly, specially or otherwise) in the Justice of the Peace Court located nearest to the Village shall have jurisdiction and cognizance of all offenses against the provisions of this Act or the authorized ordinances of the Village committed within the limits of the Village as far as to arrest and hold to bail or fine and imprison offenders; provided that he shall impose no fine or penalty in excess of that fixed by the ordinance and shall not commit to prison for a longer term than 30 days. The New Castle County Correctional Institution may be used for imprisonment under the provisions of this Act provided that the Town Assembly shall pay for the board of persons committed for breaches of ordinances which are not breaches of the general law.

- (b) No ordinance of the Village shall provide for a fine in excess of \$100 or imprisonment of more than 30 days.
- (c) Any person convicted before such Justice of the Peace for the violation of any Village ordinance may appeal from such conviction to the Superior Court in and for New Castle County upon giving bond to the State with or without surety, as such Justice of the Peace shall determine, binding the person taking the appeal to appear before the Court. Notice of such an appeal shall be given to such Justice of the Peace within five (5) days from the time of conviction, counting the day of conviction as one, and the bond with surety, if any, shall be filed within five (5) days. No bond upon appeal from a conviction for violation of a Village ordinance shall exceed the sum of one hundred dollars (\$100). Such appeal shall be prosecuted and the proceedings shall be had as in an appeal from a conviction before a Justice of the Peace in the case of a violation of the laws relating to the operation of motor vehicles.

### **Police Force**

#### **Section 13**

The Town Assembly may appoint a police force consisting of such person or persons as the Town Assembly may deem wise and advisable. The Town Assembly shall from time to time, upon recommendations of its Safety Committee, adopt rules and regulations as may be necessary for the organization, government and control of the police force. The members of the force shall be subject to the direction of the Town Assembly and may be removed by the Town Assembly at any time. They shall preserve peace and order and shall compel obedience within the Village limits to the ordinances of the Village and the laws of the State; and they shall have such other duties as the Town Assembly shall from time to time prescribe.

Each member of the police force shall be vested with all powers and authority of a constable of New Castle County within the Village limits and within one mile outside such limits, and in the case of the pursuit of an offender, his power and authority shall extend to all parts of the State of Delaware.

Every person sentenced to imprisonment by the Justice of the Peace, as provided in Section 12 of this Act, shall be delivered by a member of the police force to the New Castle County Correctional Institution, to be there imprisoned for the term of the sentence.

It shall be the duty of the police to suppress riotous, disorderly or turbulent assemblages of persons in the streets and public places of the Village, or the noisy conduct of any person in the same, and upon view of the above, or upon the view of the violation of any ordinance of the Village relating to the peace and good order thereof, the police shall have the right and power to arrest without warrant and to take the offender before the Justice of the Peace, as aforesaid.

### **Contracts of the Town Assembly**

#### **Section 14**

The Town Assembly is vested with authority on behalf of the Village to enter into contracts for the rendering of services to the Village and/or the purchase of supplies and doing of work for any municipal purpose of the Village. All formal contracts shall be signed by the Chairman of the Town Assembly, with the seal of the Village attached and attested by the Secretary of the Town Assembly.

### **Fire, Zoning and Housing Codes**

#### **Section 15**

For protection against fire and for the preservation of the beauty of the Village and the health of the inhabitants, the Town Assembly may adopt ordinances to zone or district the Village and to make particular provisions for particular zones or districts with regard to buildings and building materials; to prohibit the use of building materials that may be deemed to create a fire hazard, and this power shall embrace new buildings or additions to or alterations of existing structures of every kind, to condemn and/or vacate buildings or structures, or portions thereof, that constitute a fire and/or health menace and to require or cause the same to be torn down or removed or so altered as to eliminate the menace of fire or danger to health; to prescribe the height and thickness of walls of any building and the kind and grade of materials used in the construction thereof; and to establish a building line for buildings to be erected.

The Town Assembly may adopt zoning ordinances limiting and specifying districts and regulating thereon buildings, structures and uses according to their construction and according to the nature and extent of the use or business to be carried on therein.

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

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

The Town Assembly may provide for the issuance of building permits and may forbid the construction of any new building or the addition to, or alteration or repair of any existing building unless a building permit has been obtained therefor.

The Town Assembly may adopt a housing code to regulate and govern the occupancy of residential structures in the Village, the structural requirements of residential and commercial properties for the health, safety, welfare and comfort of occupants thereof, and to appoint a commission to carry out and enforce the provisions of the housing code.

### **Savings Clause**

#### **Section 16**

All ordinances, resolutions and motions adopted by the Commissioners of the Village of Arden and in force at the time of the approval, acceptance and going into effect of this Act are continued in force until the same or any of them, shall be repealed, modified or altered by the Town Assembly under the provisions of this Act. All the acts and doings of the Commissioners of the Village of Arden or of any official of the Village of Arden which shall have been lawfully done or performed under the laws of this State, prior to the approval, acceptance and going into effect of this Act are hereby ratified and confirmed unless otherwise provided herein.

### **Severability**

#### **Section 17**

If any part of this Act shall be held unconstitutional, such holding shall not in anywise invalidate the remaining provisions of this Act.

#### **Section 18**

This Act shall be deemed and taken to be a public Act.

56 **Del. Laws**, c. 125; 58 **Del. Laws**, c. 91; 69 **Del. Laws**, c. 30