

CHARTER OF THE TOWN OF HARTLY

Section 1. Incorporation

The inhabitants of the Town of Hartly within the limits and boundaries hereinafter described in Section 2 of this Charter, as the same may from time to time hereafter be revised, shall be and constitute a body politic and corporate in law and equity, and shall be known and identified as the "Town of Hartly."

Section 2. Town Limits

The bounds and limits of the Town of Hartly are hereby established and declared to be as follows:

Beginning at a Point where the centre of Main Street and the centre of Hayes' Lane intersect, and running in a Northerly direction two hundred feet to a stake on the lands of Frank Rehak, late of W.D. Hawkins; thence in a Westerly direction to a point two hundred feet East from the centre of the road running from Hartly to Kenton; thence in a Northerly direction, keeping at a distance of two hundred feet Easterly from the centre of said last mentioned road, to the centre of said ditch, through the centre of Farrow's Bridge to a stake in Perry's field, two hundred feet West of said bridge; thence in a Southerly direction, keeping at a distance of two hundred feet Westerly from the centre of said road running from Hartly to Kenton and the Templeville road, to the fence at the School House grounds; thence in an Easterly direction, and crossing said last mentioned road, a distance of four hundred feet; thence in a Northerly direction to Schweitzer's land, formerly Scotten's land; thence in an Easterly direction, keeping at a distance of two hundred feet Southerly from the centre of Main Street, to the centre of Hayes' Lane; and thence thereby Northerly two hundred feet to the place of beginning.

Section 3. Annexation of Territory

In the event it becomes feasible and necessary in the future for the Town of Hartly to enlarge its then existing limits and territory, such annexation accomplished pursuant to the following procedures shall be lawful:

- (a) All of the property owners of the territory contiguous to the then existing corporate limits and territory of the Town of Hartly, by written petition with the signature of each such petitioner duly acknowledged, may request the Town Commissioners to annex that certain territory in which they own property. Upon such request, the President of the Town Commission shall appoint a committee of three persons to investigate the possibility of annexation. Such committee shall have at least one elected member of the Commission among its numbers. Territory which is otherwise contiguous except for its separation from the corporate limits and territory of the Town of Hartly by public roadway, street, thoroughfare, easement or right-of-way shall be deemed contiguous for purposes of annexation under this Charter. The petition presented to the Commissioners shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Within ninety days the committee shall submit a written report containing its findings and conclusions to the Commissioners. Such report shall include the advantages and disadvantages of the proposed annexation both to the Town of Hartly and to the territory proposed to be annexed and shall contain a recommendation whether or not to proceed with the proposed annexation. In the event that the Committee concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Commissioners may then pass a resolution annexing such territory to the Town of Hartly. Such resolution shall be passed by the affirmative vote of three-fifths (3/5) of all the elected members of the Commission. In the event that the committee concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided as if the annexation were proposed by five (5) or more property owners but less than all the property owners of a territory contiguous to the then limits and territory of the Town of Hartly.
- (b) Five (5) or more property owners of a territory contiguous to the then limits and territory of the Town of Hartly by written petition with the signature of each such petitioner duly acknowledged, may request the Commission to annex that certain territory in which they own property. The petition presented to the Town Commission shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the

- commissioners, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three persons be appointed by the President to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the Town of Hartly. Such committee shall have at least one elected member of the Commission among its numbers.
- (c) Within ninety days the committee shall submit a written report containing its findings and conclusions to the Commissioners. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Hartly 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. In the event that committee concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving the report, a second resolution shall then be passed by the Commissioners proposing to the property owners and residents of the Town of Hartly and the territory proposed to be annexed that the town proposes to annex certain territory contiguous to its then limits and territory. In the event that the committee concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the committee, the Resolution proposing annexation to the property owners and residents of both the Town and the territory proposed to be annexed shall be passed by the affirmative vote of three-fifths (3/5) of the elected members of the Commission. If the resolution shall fail to receive the affirmative vote of three-fifths (3/5) of the elected members of the Commission, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the resolution failed to receive the required affirmative vote. The second 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 Commissioners setting forth the above information shall be printed within fifteen (15) days immediately preceding the date of this public hearing in at least one issue of a newspaper having a general circulation in the Town of Hartly or, at the discretion of the Commissioners, the said resolution shall be posted at two (2) conspicuous locations, both in the Town of Hartly and in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the said public hearing.
- (d) Following the public hearing, but in no event later than thirty (30) days thereafter, a resolution shall then be passed by a majority of the Commissioners ordering a Special Election to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. Passage of this resolution ipso facto shall be considered the determination of the Commissioners to proceed with the matter of the proposed annexation.
- (e) 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 one issue of a newspaper having a general circulation in the Town of Hartly, and the Commissioners shall post public notices in two (2) conspicuous locations, both in the Town of Hartly and in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the said Special Election.
- (f) At the Special Election, every citizen of either the Town of Hartly and the territory proposed to be annexed over the age of eighteen (18) years shall have one (1) vote. Every owner of property within either the Town of Hartly or in the territory proposed to be annexed who is not a citizen therein, whether an individual, partnership or a corporation, shall have one (1) vote. In the cases of jointly owned property the votes of the owners of shares therein shall be in accordance with their respective shares or, if all owners appear at the polls and so consent, all of the votes may be cast by the owner of any share. Life tenants shall have the entire vote as to the property so held and holders of remainder interest only shall have no vote by reason thereof. In no event shall any person be entitled to more than one (1) vote. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of the Town of Hartly in the case of property owners and citizens of the Town and the books and records of the Board of Assessment of Kent County, in the

case of property owners and residents of the territory to be annexed, shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.

- (g) In the event that an individual holds a power of attorney duly executed and acknowledged specifically authorizing the said individual to vote at the said Special Election, a duly authenticated power of attorney shall be filed with the Commission of the Town of Hartly. Said power of attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election.
- (h) The Town Commission of the Town of Hartly shall utilize a form of ballot to be printed as follows:
 - For the proposed annexation
 - Against the proposed annexation
- (i) The President of the Commission shall appoint three (3) persons to act as a Board of Special Elections, at least one (1) of whom shall own property in the Town of Hartly and at least one (1) of whom shall own property in the territory proposed to be annexed. One (1) of the said persons so appointed shall be designated the presiding officer. Voting shall be conducted in a public place as designated by the resolution calling for the Special Election. The Board of Special Elections shall have available, clearly marked, two (2) voting machines. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations who are authorized to vote as residents or property owners in the Town of Hartly shall be accomplished on the other such voting machine. The polling place shall be open from 2 P.M. until 6 P.M., local 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 closing of the polls.
- (j) 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 Commissioners. Said certificate shall be filed with the records of the Town.
- (k) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from the Town of Hartly, and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the special election results in an unfavorable vote for annexation, no part of the territory proposed for annexation shall again be considered for annexation for a period of at least one (1) year from the date of the said Special election. If a favorable vote for annexation shall have been cast, the Commissioners of the Town of Hartly 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 County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said special election. The territory considered for annexation shall be considered to be a part of the Town of Hartly from the time of recordation. The failure to record the description of the plot within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable special election.
 - (1) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books of the Board of Assessment of Kent County, no election shall be necessary and the Commissioners of the Town of Hartly may proceed to annex such territory by receiving a certified copy of a resolution requesting such annexation, if such property is owned by a corporation, or by a written petition with the signature of each such petitioner duly acknowledged, if such property is owned by an individual, requesting the Commissioners to annex that certain territory in which they own property. The certified copy of the resolution or the petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the resolution or the petition, the President of the Commission shall appoint a committee composed of not less than three persons to

investigate the possibility of annexation. Such committee shall have at least one elected member of the Commission among its numbers. Within ninety days the committee shall submit a written report containing its findings and conclusions to the Commissioners. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Hartly 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. In the event that the committee concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Commissioners may then pass a second resolution annexing such territory to the Town of Hartly. Such resolution shall be passed by the affirmative vote of three-fifths (3/5) of all the elected members of the Commission. In the event that the Committee concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the resolution shall be passed by four-fifths (4/5) of all the elected members of the Commission. If the resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the resolution failed to receive the required votes. If the resolution receives the required number of votes, the Commissioners of the Town of Hartly 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 County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the resolution. The territory considered for annexation shall be considered to be a part of the Town of Hartly from the time of recordation. The failure of the Commissioners to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the resolution.

Section 4. Commissioners, Qualification of

There shall be five Commissioners of the Town of Hartly, all of whom shall be as follows:

- (a) A bona fide resident of the Town of Hartly for at least one year next preceding the annual election;
- (b) At least eighteen (18) years of age;
- (c) Be non-delinquent in his town taxes to the extent subject to same; and
- (d) Each of the qualifications for Town Commissioner shall be continuing qualifications to hold office and the failure of any Commissioner to have any of the qualifications required by this Section during his term of office shall create a vacancy in the office.

Those Commissioners who are in office at the time this Charter is enacted by the General Assembly shall hold their offices for the residue of the term for which they have been previously elected.

Section 5. Election of Commissioners

On the last Saturday in April next following the enactment of this Charter, and on the last Saturday in April annually thereafter, at a location chosen by the Commissioners, the Town shall conduct its annual election, by ballot, and shall elect those persons required to fill any vacancies among the Commissioners. The Commissioners shall advertise the place, date and times of the election at least once a week for two successive weeks immediately prior to said election in a newspaper of general circulation in the Town of Hartly, and post public notices containing that information in at least two (2) public places within the Town of Hartly at least two (2) weeks prior to the day of the election. At the election to be held on the said last Saturday in April following the approval of this Charter, the polls shall remain open from 2 P.M. until 4 P.M. local time, and five Commissioners shall be chosen, two for two years, and three for one year. At each and every election to be held annually thereafter there shall be chosen, each for a term of two years, Commissioners in the places of the Commissioners whose terms of office shall then expire, and residents shall likewise elect Commissioners to fill only unexpired terms occasioned by vacancy or forfeiture.

Section 6. Vacancy or Forfeiture of Office

A vacancy or forfeiture of office shall occur upon the following:

- (a) death of any Commissioner, or
- (b) resignation of any Commissioner, or
- (c) removal of residence beyond the Town limits, or
- (d) failure to attend three consecutive regular meetings without being excused by the Commission, or
- (e) failure of any Commissioner to maintain qualifications required to be elected to office.

Determinations concerning forfeiture of office shall be made by the Town Commission, but the affected party shall not have a vote in any such decision. Such deliberations may be held in executive session and if the Commission determines by unanimous vote that a forfeiture has occurred, it shall, within twenty-four hours of that determination, provide the affected party with written notice of that fact, stating specific reasons in support thereof. The affected party shall have ten (10) days, counting the day he receives such written notice as the first day, in which to make a written demand for a public hearing before the Town Commission at which hearing he may appear with the assistance of counsel. At such hearing, the Town Commission shall state publicly the grounds and reasons for its determination and shall present such relevant evidence as it deems appropriate in support thereof. The affected party shall likewise be afforded an opportunity to present such relevant evidence as he deems appropriate in opposition thereto. Any persons testifying at such proceedings shall be sworn according to law and shall be subject to cross-examination. Strict rules of evidence shall not apply. If, at the conclusion of such hearing, the Commission again determines by unanimous vote of the unaffected members that a forfeiture has occurred, that decision shall be final and conclusive.

Failure of the affected party to make a timely written demand for a public hearing before the Commission, as hereinabove provided, shall be an absolute bar to his right to challenge the Commission's decision in any court of competent jurisdiction.

During, or in connection with, any forfeiture proceedings, the Town Commission shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence.

Section 7. Filling Vacancies

In the event that the position of any elected Commission member becomes vacant by reason of death, resignation, removal beyond the Town limits, forfeiture of office for failure to attend three consecutive regular meetings without being excused by the Commission, or otherwise, the remaining Commission members shall themselves elect, by majority vote, another qualified person to serve until the next regular election at which time such vacancy shall be filled by election to serve the remainder of the term, if any there be.

Section 8. Elections Board

Every election shall be conducted by an Elections Board consisting of the President of the Commissioners, or other qualified voter in his absence, and two other citizens of the Town chosen by those legally qualified voters present at the opening of the polls.

The Election Board shall pass upon the qualifications of voters and conduct the election, keeping a list of all persons who vote. At the close of such election the Board shall canvas the votes, and the candidates having the highest number of votes for each office shall be declared elected. Certificates shall be made out and delivered to the person or persons so elected, and the results of the election shall be noted on the records of the Town. In the event of a tie, the Elections Board shall, by majority vote, determine who is to be elected.

Section 9. Appointment of Town Officers

Within a reasonable time after the election, the Commissioners, by majority vote, shall appoint a President, Treasurer, Town Clerk, Town Solicitor, Public Works/Building Inspector, and such other officers as they may deem necessary. The President shall be appointed from among the Commissioners. Other members of the Commission may serve as appointive officers of the Town of Hartly. Each such officer

shall serve for a term of one year, and until his successor has been duly appointed and qualified; however, the Town Solicitor shall be appointed for an indefinite term and shall be removable at the pleasure of the members of the Commission either with or without due cause stated.

Section 10. Official Oath of Office

The President, the Treasurer, the Town Clerk, the Town Solicitor, the Public Works/Building Inspector and the Commissioners shall severally be sworn or affirmed to the faithful and impartial performance of their respective duties and undertakings according to the best of their skill and judgement. The said Commissioners may qualify each other and the several officers appointed by them, and any and all other persons when necessary, by administering a proper oath or affirmation suited to the case. The certificates of such qualifications shall, after being duly administered as aforesaid, be recorded in a Town book procured by the Commissioners for that and other purposes, stating the names, time and for what purposes such persons are so qualified, and shall be subscribed by the person administering such oath or affirmation, and the same shall be evidence in all cases.

Section 11. Corporate Powers

The present Commissioners of the Town of Hartly, and such other persons as may hereafter be chosen Commissioners for said Town, be and they are hereby created a body politic and corporate in law and in equity, and they and their successors:

- (a) Shall be able to sue and be sued, plead and be impleaded in all courts of this State or of the United States, by the corporate name of "The Commissioners of Hartly" subject to such immunities as have heretofore, or may hereafter, be enacted or developed by statutory or common law pertaining to municipal corporations of this State, and their officers, employees, and agents.
- (b) May hold and acquire by gift, negotiation and purchase, devise or lease, property, both real (improved or unimproved) and personal or mixed, within or without the boundaries of the town, in fee or lesser estate or interest, necessary or desirable for any municipal or public purpose.
- (c) May sell, grant, alien, lease, mortgage, manage, hold and control such property as the interests of the town may require except as prohibited by the Constitution of the State of Delaware, or as restricted by this Charter.
- (d) May grant options to purchase, or to renew a lease for any Town project on such terms as the Town may determine to be reasonable.
- (e) May acquire, by purchase, gift, transfer or by condemnation for public purposes, and manage and operate, hold and dispose of real property and, subject to agreements with lessors or lessees, develop or alter such property by making improvements and betterments with the purpose of enhancing the value and the usefulness of such property.
- (f) May purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of the abatement of nuisances and the like, laying out and repairing sidewalks, curbs or gutters, charge relating to the installment of a sewer system, surface drainage or street lighting, or other charges due the Town and to sell the same.
- (g) May design and construct improvements or alterations on properties which it owns or which it operates by contract on behalf of the Town.
- (h) May enter into such contracts and agreements as are deemed necessary or in the best interests of the town, provided the purposes of such contracts are otherwise lawful and authorized by this Charter, or the laws of the State of Delaware.
- (i) May retain by contract legal counsel, auditors, engineers, private consultants, advisors or other contractual services whenever such services, in the discretion of the Commissioners, are deemed necessary, desirable or convenient to the Town of Hartly.
- (j) May contract for services in the performance of architectural and engineering design, the supervision of design and construction, system management and facility management, for such professional or technical services as are required, and for such other professional or technical services as may require either prequalification of a contractor or the submission by

any person, firm or consortium or association of persons or firms of a proposal in response to an official request for proposal or similar written communication of the Commissioners whenever such services, in the discretion of the Commissioners, are deemed necessary, desirable or convenient for any municipal or public purpose.

- (k) May procure and keep in force adequate insurance or otherwise provide for the adequate protection of the town's property, as well as to indemnify and save harmless it and its officers, agents or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function of the Town of Hartly.
- (l) May levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon; provided, that there shall be no limitation upon the amount which may be raised from the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether hereinbefore or hereafter incurred.
- (m) May levy and collect a personal or per capita tax upon all persons resident within the corporate limits of the Town of Hartly to be used for any and all municipal purposes.
- (n) May provide for the collection of and disbursements of all moneys to which the Town may become entitled by law, including licenses and fines where no provision for the collection and disbursement thereof is otherwise provided in this Charter;
- (o) May borrow money in the name of the Town for any proper municipal purpose and in order to secure the payment of the same to issue bonds or other forms or kinds of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Commissioners shall select for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all state, county or municipal taxes.
- (p) May borrow money in anticipation of revenues on the full faith and credit of the Town of Hartly sum or sums not exceeding Ten Thousand Dollars (\$10,000.00) in any one year when, in the opinion of a majority of the Commissioners of the Town of Hartly, the needs of the Town require it. However, the Commissioners may borrow on the full faith and credit of the Town sums in excess of Ten Thousand Dollars (\$10,000.00) but not exceeding Two Hundred Thousand Dollars (\$200,000.00) if such borrowing is approved by a majority referendum vote of the qualified voters of the Town of Hartly. Notice of the holding of such referendum election shall be authorized by resolution of the Commissioners, published once a week, for at least two (2) consecutive weeks in one newspaper of general circulation in the Town of Hartly. Such notice shall set out in summary form the amount and purposes of such borrowing the date and place of holding the referendum election and the hours the polls will be open. Any sum so borrowed shall be secured by promissory notes of the Town of Hartly, duly authorized by resolution adopted by the Commissioners of the Town of Hartly, signed by the President of the Commission, and attested by the Secretary of the Commission with the corporate seal affixed, and no member of the Commission shall be liable for the payment of such notes because it is signed by them as officers of the Town and is authorized by the resolution of the Commissioners; provided however, that the total sum outstanding at any one time shall not exceed Two Hundred Thousand Dollars (\$200,000.00), and provide further that such ad valorem taxes shall be levied as are necessary to pay the principal or the interest on said notes as is required without regard to any other limitation concerning the maximum rate of the taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof.
- (q) May appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the town in case of emergency.
- (r) May provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee charge, or other amount due the Town by the performance of labor or service for the Town by any person owing the same.
- (s) May define, abate, demolish, and remove dangerous buildings and other dangerous structures in the Town, including the power to condemn and cause to be torn down and remove any structure which, upon inspection by the Public Works/Building Inspector, is

determined to be a fire hazard or otherwise be unsafe; provided, however, that any such ordinance shall provide procedures for notice and opportunity to be heard and to correct the hazardous condition by the affected property owner and/or lienholders, and to otherwise comply with Chapter 39, Title 25, Del. C. of 1974, and all amendments heretofore or hereafter adopted.

- (t) May acquire, and/or vacate the use of land tenements, personalty, property, easements, rights of way, or any interest in property, either within or without the limits of the town, by way of condemnation and eminent domain for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred upon or delegated to the Town of Hartly by this Charter. Proceedings by way of condemnation in any case shall be as prescribed in Chapter 61, Title 10, Del. C. of 1974, as heretofore or hereafter amended.
- (u) May inquire into and investigate the conduct of any officer, agent or employee of the town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena.
- (v) May contract with any municipality, county, the State, or any agency or instrumentality thereof, for cooperation in the maintenance and operation of police, trash collection or other municipal services which under this Charter the Town of Hartly individually may perform and participate in such cooperative arrangements as the Commissioners may deem necessary to carry into effect the purposes of this subsection.
- (w) May regulate and control the manner of building, addition to or alteration and repair of an existing building, or removal of dwelling houses and other buildings; establish a code for the same and provide for the granting of permits for the same; establish a building line for buildings to be erected; and the Commissioners may delegate such duties to the public Works/ Building Inspector as they deem necessary or desirable to carry into effect the purposes of this subsection.
- (x) May adopt zoning ordinances limiting and restricting to specified districts, and regulating therein, buildings and structures according to their construction and the nature and extent of their use, and generally exercise all powers and authorities vested in the legislative body of cities and incorporated towns by virtue of Chapter 3, Title 22, Del. C. of 1974, and all amendments heretofore or hereafter adopted.
- (y) May pass ordinances and rules for the good government and good order of the Town and for all matters relating to the general health, safety, morals, peace, and welfare of the Town.

Section 12. Continuing Authority

All laws, ordinances, resolutions, rules and regulations for municipal purposes now in force within the Town which are not inconsistent with, nor modified or repealed by any provision of this Charter, shall continue in force until repealed, rescinded or changed by proper authority. This Charter shall be construed liberally in favor of the town, and nothing in this Charter shall be construed as exempting any individual or agency from the operation of this section.

Section 13. Commission Procedure; Meetings

The Commission shall meet regularly at least four times every year; on the second Tuesday in February, May, August and November. Special meetings may be held on the call of the President or of two or more members and, wherever practicable, upon no less than twelve hours, notice to each member. All meetings shall be public. However, the Commission may recess in a closed or executive session limited to its own membership for any of the following purposes:

- (a) Personnel matters in which names, competency and abilities of current or prospective employees are discussed.
- (b) The hearing of employee disciplinary or dismissal cases unless the employee requests a public hearing.
- (c) Discussion of the contents of documents considered to be "nonpublic", including personnel files, commercial or financial information obtained from a person which is of a privileged or

confidential nature, records pertaining to pending or potential litigation which are not records of any court, records of discussion held in executive session or any records specifically exempted from public disclosure by statute or common law.

- (d) Discussions which would disclose the identity of the contributor of a bona fide and lawful charitable contribution to the Town whenever public anonymity has been requested of the Town by said contributor.
- (e) Discussion of potential or actual emergencies related to preservation of the public peace, health and safety.
- (f) Where the Commission has requested the town solicitor to render his legal advice or opinion concerning an issue or matter under discussion by the Commission and where it has not yet taken a public stand or reached a conclusion in the matter.
- (g) Preliminary discussions on site acquisitions for any publicly funded capital improvements.

In addition, the general subject matter under consideration at the executive session shall be expressed in the motion calling for such session, and final action thereon shall not be taken by the Commission until the matter is placed on the agenda.

Executive sessions may be held only for the discussion of public business, and all voting on public business must be made at a public meeting and the results of the vote made public, unless disclosure of the existence or results of the vote would disclose information properly the subject of an executive session pursuant to subsections (a)-(g) of this Section.

Section 14. Rules and Journal

The Commission shall determine its own rules and order of business and the town clerk shall keep a journal of its proceedings. This journal shall be a public record.

Section 15. Voting By Commissioners

Three members of the Commission shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by a majority of the Commissioners.

No action of the Commissioners, except as otherwise provided in the preceding sentence, shall be valid or binding unless adopted by the affirmative vote of three or more members. The President as an elected Commissioner is entitled to vote on all issues.

Section 16. Ordinance Action

Full power and authority is hereby conferred upon the Town Commissioners and their successors in office, at any lawful meeting, to vote on and enact all ordinances which may be requisite to secure good government to meet the lawful needs of the Town and its residents and for all matters relating to the general health, safety, morals, peace and welfare of the Town; to define nuisances and provide for their abatement; to define, abate, demolish and remove dangerous buildings and other dangerous structures in the Town, including condemnation; to regulate and control the manner of building or removal of dwelling houses or other structures within the Town; to regulate surface drainage within the Town; to provide for zoning within the Town; to determine what are obstructions to the roads, streets, avenues, passes, sidewalks, ditches, or water drains therein, and to regulate travel upon said ways, roads and avenues; to provide for a sewer system within the town; to provide for street lighting within the town; to provide against improper gatherings and assemblages of persons to the fear and terror of town citizens, and of all noisy and turbulent gatherings whatsoever; to levy and collect taxes for any and all municipal purposes; to authorize the borrowing of money on the full faith and credit of the Town of Hartly; to sell, lease, or authorize the sale or lease of, any asset of the Town of Hartly at a rate to be determined by the Commissioners; to fix adequate fines and forfeitures for any violation of any such ordinances or by-laws made and established by the Commissioners; to amend or repeal any ordinance previously adopted and to provide any and all proper remedies, means and processes requisite to carry into effect all and every the aims, objects and purposes of this Charter.

Section 17. Liberal Construction

The powers of the Town of Hartly under this Charter shall be literally construed in favor of the Town of Hartly, and the enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but are in addition to the powers enumerated herein. The Town shall have all powers implied hereby or necessary or appropriate to the exercise of its enumerated powers. All powers of the Town of Hartly, whether express or implied, shall be exercised in the manner prescribed by this Charter, or if not prescribed herein, then in the manner provided by state law, by ordinance, or by resolution of the Commissioners. The Commissioners may, by resolution, do such other act or thing necessary, incidental to, or useful in connection with any of the matters in this Charter, duly authorized.

Section 18. Town Budget

- (a) The fiscal year for The Town of Hartly shall be as determined by resolution of the Commissioners.
- (b) Annually each year and not later than sixty (60) days prior to the beginning of the next fiscal year, the Commissioners shall prepare a rough draft of the Town Budget. From this rough draft, the Commissioners shall not later than the regular meeting following the presentation of the such rough draft prepare the budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year. The Commissioners shall fix a time and place for a public meeting on the subject of the proposed budget.
- (c) The budget shall contain the following information:
 - (1) A detailed estimate showing the expense of conducting each office of the Town for the ensuing fiscal year;
 - (2) The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof;
 - (3) The amount of the debt of the town, together with the schedule of maturities of Bond issues;
 - (4) An itemized statement of all other estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;
 - (5) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds"; and
 - (6) An estimate of the amount of money to be received from taxes, assessments, and all other anticipated income of the Town from any source or sources whatsoever.
- (d) The budget shall be printed in a newspaper having a general circulation in the Town of Hartly at least once a week for two (2) weeks prior to the date set forth for a public meeting on the matter.
- (e) At such public meeting, all residents of the Town of Hartly shall have an opportunity to comment on the budget.
- (f) At the conclusion of the public meeting, the Commissioners shall determine whether the budget shall be adopted as written or make such changes or alterations in the budget as they shall deem just and proper.
- (g) After any and all changes or alterations in the budget have been made, a resolution shall then be passed by a majority of the Commissioners adopting the budget in its final form.
- (h) The Commissioners shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

Section 19. Taxation Limits

The Commission is authorized to levy and collect from the taxable of the Town according to the terms and provisions of this Charter, and of any other act not hereby repealed or made inconsistent hereby, such sum of money as may be deemed by the Commission necessary and proper for the general municipal needs of the town, which sum of money shall in no year exceed a sum of money in excess of fifty (50%) percent of the total assessed value of all the real estate subject to taxation in the town. The amount to be raised annually by taxation and the rate of taxation shall be fixed annually in the budget for the Town.

Section 20. Town Assessment

The Treasurer shall, in the month of July following the annual election, obtain from the records of the Kent County Board of Assessment of Dover, Delaware, a list of the taxable real estate within the limits of the Town, together with the names of the owners thereof, and of the assessment of such property by the County Board of Assessment.

The Treasurer shall be authorized to add to such list any taxable real estate within the Town which may have been omitted from the county list, or where any property has undergone some significant change of condition since the county's last assessment. He shall have authority to make a true, just, and impartial assessment of such added or changed property and assess the same to the proper owners thereof.

In addition, the Treasurer shall be authorized to add to said assessment list any and all charges, costs, or other assessments owed to the Town, including but not limited to curb and gutter assessments, sidewalk assessments, sewer and surface drainage assessments, grass cutting and street lighting charges. This list shall be the official assessment list of the Town and shall be delivered to the Commissioners within thirty days for their examination. If corrections need to be made, the Commissioners, by recorded majority vote, may make all needed corrections.

Section 21. Assessment Publicly Posted

A true copy of the assessment, as approved by the Commissioners, or as many copies as are necessary, shall be displayed at a public place for the inspection of all residents. Notice that such copy has been made shall be given by the said Commissioners or the Treasurer, and posted in two of the most public places in said Town at least ten days previous to the day on which the Commission shall sit together to hear and determine assessment appeals. The notice shall state the time and place of the assessment appeals meeting.

Section 22. Assessment Appeal Meeting

The assessment appeal meeting shall be kept open from 7 P.M. until 9 P.M. local time of the announced day, which shall also be stated in said notices, and shall be held at such place as named in said notices, and as soon after the posting of said list as conveniently may be. At the said assessment appeal meeting the Commissioners shall hear and determine the appeals and make such changes or alterations in all appeal cases as to them shall seem just and proper.

The Commissioners may alter and amend the assessment so as to secure, according to the best of their skill and judgment, a fair and impartial assessment throughout. All such corrections, additions and alterations, if any, shall be made on the day and within the hours of appeals as advertised and not thereafter; otherwise, the Commission shall be bound to accept the county's assessment and any additions made by the Treasurer. No Commission member shall sit to hear his own appeal.

Section 23. Town Treasurer

The Treasurer shall be the collector and receiver of all taxes and all other monies due or belonging to the town. These monies are subject to being drawn upon by Order of the Commissioners, signed by the President, for the uses of the town, and such orders so drawn when fully paid by the Treasurer shall be sufficient voucher for all payments so made.

Section 24. Treasurer's Bond

The Treasurer shall at all times be required to give the Commissioners bond and security, equal to the amount of the Town's annual budget plus the amount of monies kept in Cash Reserve, and conditioned on the faithful performance of each and every duty and undertaking, including the payment and delivery to his successor, when the successor is duly installed and qualified, of all monies, books, papers and other things or effects in the Treasurer's care and keeping, or with which he may properly be chargeable.

Section 25. Levy; Other Charges and Assessments

When the appeal day has passed the Commission shall, without delay, cause the assessment list to be transcribed and delivered to the Treasurer. A duplicate copy of the assessment list, so corrected and

adjusted, shall be retained by the Commission for future reference. The transcribed list shall contain: the name and address of the taxable, the address of the property being taxed, the assessed value of such property, the rate of tax per hundred dollars of assessed value, and the amount of taxes due. Such list or assessment shall also include any and all charges, costs and other assessments owed to the town, as hereinabove described. Such transcript, signed by the Commission members, shall be delivered to the Treasurer within seven days of the appeal day who shall thereupon collect from each taxable his proportion of the tax laid. Not later than the third week in March of the following year, the Treasurer shall settle all such tax accounts.

Section 26. Collection and Tax Liens

The Treasurer shall immediately after receiving said list from the Commission proceed to collect the taxes as written and contained in said list. The Treasurer, in collecting such taxes, shall have all powers conferred by law upon the collectors of school taxes, and of county taxes, by virtue of the laws of Delaware now in force or hereafter enacted. All taxes, charges, costs, and assessments levied on real estate under authority of this Charter shall be and continue as a lien against the property assessed for a period of five years from the date prescribed herein for the delivery of the assessment list to the Treasurer. Such lien may be extended in the same manner as provided by law for the extension of tax liens for Kent County taxes. In addition such lien shall have preference and priority over all other liens of record on such real estate created or suffered by the said taxable, although such other lien or liens be of a date prior to the time of the attaching of the Town lien for taxes.

At any time after the delivery of the tax list, the Treasurer may, in the name of the "Town of Hartly", institute suit before any Justice of the Peace in any county of this State for the recovery of the unpaid tax, in an action of debt, and upon judgment obtained, may seek a writ of execution as in case of other judgments recovered before a Justice of the Peace.

Section 27. Due Date, Penalty

All taxes shall be due the Town as soon as the assessment list has been delivered to the Treasurer by the Commissioners. After September 1st of each year a penalty of 1 1/2% per month shall be added to all uncollected taxes until fully paid, which penalty shall also apply to any other charges, costs, or assessments shown on the assessment list.

Section 28. Exemptions

All machinery now in the Town of Hartly or that hereafter may be erected shall be exempt from taxation for Town purposes, and that only the real estate and buildings belonging to such factory shall be taxed.

Section 29. Treasurer Vacancy

If the Treasurer should die or become incapacitated to perform the duties of the office before the end of the term, then the person or persons named in the surety bond shall fill the office of Treasurer and exercise the powers conferred on said Treasurer until a successor be duly appointed and qualified.

Section 30. Use of Town Money

The Commissioners shall have full power and authority to use the money in the Treasury of the Town, or any portion thereof, from time to time, for the general improvement, benefit, protection, ornament, and best interests of the Town, as the Commissioners may deem proper, and to use Town money to accomplish and carry into effect all acts and things which it has power to do by virtue of the laws of Delaware, this Charter, and all lawful ordinances and resolution of the Commissioners.

No monies shall be paid out by the Treasurer except as directed by action of a majority of the Commissioners and signed by the President.

Section 31. Paving or Repaving of Sidewalks

The Commissioners shall have power to pave or repave, or to cause to be paved, or repaved, the streets and sidewalks of the Town, or any part or portion thereof, with such material or materials as it shall determine.

The power hereby conferred shall be exercised in the following manner:

- (a) The Commissioners, at such time as they shall determine that the conditions of a particular street or streets, or portion thereof, require that sidewalks be laid, or that the sidewalks then existing, if there be sidewalks laid, should be improved, may order or direct the property owner or owners to lay or replace sidewalks with such material or materials, as, in the judgment of the Commissioners, may seem best under the circumstances. Such order shall specify the width of such sidewalk, the width of the pavement to be laid thereon, and of the general height and character of curbing next to the street for the support of such sidewalk. Said sidewalks and curbs shall be made to conform with the general grade of the street or sidewalk and pavement of which the same is a part.
- (b) It shall be the duty of the Public Works/Building Inspector to give at least 15 days notice in writing to the owner or owners of the property affected by the action of the Commissioners. Said notices shall be served in the following manner: a copy thereof shall be delivered personally to the owner or owners of said property, or a copy thereof shall be left with the tenant in possession of the property, or a copy thereof shall be sent by registered mail to the last known post office address of the owner or owners of the said property or properties so affected. Service of such notice by either of said methods shall be sufficient to bind the owners or owners under the provisions of this Charter.
- (c) It shall be the duty of the owner or owners, after notice shall have been given in either of the ways above designated, to forthwith cause the said sidewalks to be laid or the improvement or alteration thereof to be made, as directed in said notice.

Section 33. Town May Pave When Owner Refuses

If, within three months, any Person shall fail, neglect or refuse to perform any work lawfully ordered by the Commissioners under Section 31, then and in such event the Commissioners are hereby authorized and empowered to contract for said work and repair, and procure the material needed. The Public Works/Building Inspector shall be responsible for supervising any such work or repair ordered by the Commissioners.

Section 34. Expenses, How Recovered

When work ordered under Section 32 is completed, the Town shall recover all the costs and charges incurred, including any skillful superintendent's charges for his services in managing and directing the same, by action in the name of "The Town of Hartly" before any Justice of the Peace in said county or any court of this State, as circumstances of jurisdiction may require.

Section 35. Control of Streets

The streets, sidewalks, lanes and alleys now opened, or hereinafter to be opened, within the limits of the Town shall be under the supervision, management and control of the Commissioners and the Commissioners may prescribe the grades thereof and adopt ordinances regulating the use thereof and the traffic thereon. The Public Works/Building Inspector shall be responsible for the daily supervision of streets, under the direction of the Commissioners. The Commissioners shall have the power and authority to locate, layout, and open new streets and to widen and alter existing streets or parts thereof, and to vacate, close, or abandon streets or parts thereof, when they shall deem it in the best interest of the Town.

Section 36. Sewer System

The Commissioners shall have full power and authority to provide, construct, extend, maintain, manage and control a sewer system for the health, sanitation and convenience of the inhabitants of the Town, on, over, under, or through the streets, alleys, lanes, roadways or other highways, or on, over under or through the lands of any person.

The power hereby conferred shall be exercised in the following manner:

- (a) The Commissioners, at such time as they shall determine that the construction and maintenance of a sewer system and/or sewage treatment facility is in the best interest of the Town, shall adopt a resolution favorable to the construction and maintenance of said sewer

- system and/or sewage treatment facility. The resolution shall give a general description of the proposed sewer system and/or sewage treatment facility and include a listing of the property owners affected by such proposal. The resolution shall also state the day, hour and place where the Commissioners will hold a public meeting for the purpose of entertaining public comment on the proposed sewer system and/or sewage treatment facility.
- (b) Copies of such resolution shall be posted in at least two (2) of the most public places in the Town for at least two (2) weeks prior to the date fixed by the Commissioners for the public meeting.
 - (c) After entertaining public comment, the Commission shall, at said meeting or at a subsequent date, as it may deem proper adopt a resolution to proceed with, alter, or abandon the proposed plan for a sewer system and/or sewage treatment facility as contemplated in its aforementioned prior resolution.

The Commissioners may, by condemnation proceedings, take private land or property, or the right to use private land and property, under, over, or on the surface thereof, for the proper operation or extension of the sewer system and/or sewage treatment facility in the Town. The proceedings by condemnation under this section shall be the same as prescribed by 10 **Del. Laws**, c. 61 of 1974, as heretofore or hereafter amended.

The Commissioners shall have the power to enact ordinances, rules and regulations regarding the sewer system and/or sewage treatment facility of the Town and the use thereof, and the amounts to be paid by the users thereof, and to fix fines and penalties, or both, for the willful or negligent injury or damage to or interference with the said sewerage system and/or sewage treatment facility of the Town. Unless otherwise specified by the Commissioners, the Public Works/Building Inspector shall be responsible for the daily supervision of the sewer system and/or sewage treatment facility, under the direction of said Commissioners.

The Commission may, at its option, furnish sewer facilities to places and properties outside the Town limits upon such special terms, charges and conditions as it may deem wise. In a proper case, the Commissioners may require any property in the Town to be connected with the sewer system and may compel the owner to pay the charge of such connection and the tapping fee charged therefor and in respect thereto the Town shall recover all such charges by action in the name of "The Town of Hartly" before any Justice of the Peace in said county or any court of this State, as circumstances of jurisdiction may require.

Section 37. Surface Drainage

The Commissioners shall have the full jurisdiction and control, within the limits of the Town, of the drainage of all water thereof, together with the right to alter and change the course and direction of any of the natural water courses, runs and rivulets within the limits of the Town and the right to open gutters, surface water and underground drains and sewers within the limits of the Town.

The Commissioners shall also have full power to regulate, maintain, clean and keep the natural water courses, runs and rivulets within the Town limits open and clean and unobstructed.

The Commissioners may, for the purposes hereinbefore mentioned, enter upon private lands and take, condemn and occupy the same in the same manner and by the same condemnation proceedings as prescribed by 10 **Del. Laws**, c. 61 of 1974, as heretofore or hereafter amended.

The Commissioners shall have the power to enact ordinances, rules and regulations regarding the surface drainage of the Town. The Public Works/Building Inspector shall be responsible for the daily supervision of the surface drainage of the Town, under the direction of the Commissioners.

Section 38. Street Lighting

The Commissioners shall have the power to provide street lighting within the limits of the Town, or any part or portion thereof, when such is determined by the Commissioners to be in the best interest of the Town. Such lighting shall be provided in any manner in which, in the judgment of the Commissioners, may seem best under the circumstances.

The Commissioners shall have the power to enact ordinances, rules and regulations regarding street lighting within the limits of the town and the amounts if any, to be paid by the beneficial users thereof.

The Town shall recover all the charges, if any, in respect to such street lighting by an action in the name of "The Town of Hartly" before a Justice of the Peace in said county or any court of the State, as circumstances of jurisdiction may require.

The Public Works/Building Inspector shall be responsible for the daily supervision of the street lighting, under the direction of the Commissioners.

Section 39. Duties of President

It shall be the duty of the President to preside at the meetings of the Commissioners, receive complaints of nuisances and other complaints of citizens of violations of the laws and ordinances, and present the same to the Commissioners at the next stated meeting for action, and such violation or infractions of the laws or ordinances as require immediate action to cause the same to be proceeded on before the appropriate body or tribunal. He shall perform such other duties as may be prescribed by ordinances.

Section 40. Town Solicitor

The Commissioners, by majority vote, shall select and appoint a town solicitor for an indefinite term who shall be removable at the pleasure of the members of the Commission either with or without due cause stated. The town solicitor shall be a member in good standing of the Bar of the State of Delaware, with offices in Kent County. It shall be his duty to give legal advice to the Commission and other officers of the town and to perform other legal services as may be required of him by the Commission.

Section 41. Compensation

The Treasurer, Town Clerk and Town Solicitor each shall receive a reasonable compensation for their services, as determined by the Commissioners. By unanimous vote of those members present at any regularly scheduled meeting of the Commission at which a quorum is present, any member of the Commission may be reimbursed for those actual, reasonable, and necessary expenses incurred by him in the performance of the business of the Town; provided however that such business was duly authorized by motion, resolution, or order of the Commission. Any such member requesting reimbursement shall present documented proof of such expenditures which documents shall be maintained by the Treasurer in a file set aside for that purpose.

Approved July 19, 1983.

(64 Del. Laws, c. 210, 7/10/83)