

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." The Town has power to govern itself by such ordinances, rules, resolutions, and regulations for municipal purposes as they, through their duly-elected officers and agents deem proper, not in conflict with the provisions of this Charter, nor with the Constitution and Laws of the State of Delaware, or of the United States; and as such shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts. The Town has perpetual succession and succeeds to own or possess all property, whether real, personal, or mixed, tangible or intangible, of whatever kind and nature, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed, or enjoyed by the Town of Hartly. 83 Del. Laws, c. 170

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. The bounds and limits of the Town of Hartly are automatically amended pursuant to any annexations approved by the Town without the necessity of amending the boundary description contained in this Charter. 83 Del. Laws, c. 170

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 which constitutes the final annexation approval without the necessity of following those procedures set forth herein for annexations requested by less than all of the property owners. Such resolution must 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 less than all the property owners of a territory contiguous to the then limits and territory of the Town of Hartly.
- (b) Less than all of the 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

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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.
- (L) 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.

- (m) No action contesting the annexation of any territory may be brought after the expiration of 60 days from the publication of a notice in a newspaper of general circulation in the Town and territory annexed, which notice must contain the following information:
- (1) Notice that the Town has annexed such territory and a description thereof.
 - (2) Notice that any person or other legal entity desiring to challenge the annexation must bring an action within 60 days from the date of publication of such notice or be forever barred from doing so.
 - (3) Such notice must be in bold print or bordered in black in such manner as to call attention thereto.
 - (4) In addition to publication as herein provided, the Town Commission must cause a public notice, containing the information set out in subsections (1) and (2) above (using date of "posting" for date of "publication"), to be posted in at least two (2) public places in the Town, viewable to the public, one of which places must be in the territory annexed.
 - (5) In the event the publications and postings do not appear on the same date, the date of the first publication or posting shall control. 83 Del. Laws, c. 170

4. Structure of Government; Qualifications for Town Commissioners; Term of Office; Compensation.

- 4.1. Structure of Government. The government of the Town of Hartly and the exercise of all powers conferred by this Charter are vested in and exercised by five (5) Commissioners, all of whom shall be elected at large by the qualified voters of the Town of Hartly.
- 4.2. Qualifications for Town Commissioners. Candidates for the office of town commissioner must be at least eighteen (18) years old, have not been convicted of a felony or of any crime involving fraud, bribery, or embezzlement, have been a bona fide domiciliary of the Town of Hartly for at least one year prior to the date of the election, and have been otherwise qualified to vote at the annual Town election as provided for herein. For purposes hereof, a "bona fide domiciliary" means that a person has their true, fixed, and permanent home and principal establishment in the Town of Hartly to which, whenever they are absent, they have the intention of returning and physically resides in the Town of Hartly on a continuing basis, provided that absence for less than ninety days at a time from one's place of domicile for some temporary purpose shall not terminate that domicile so long as the intention to return to that place remains fixed, certain, and constant during the period of such physical absence.
- 4.3. Term of Office. Each Commissioner shall serve a term of two years. Commissioners in office at the time this Charter is enacted by the General Assembly will hold their offices for the residue of the term for which they were previously elected. At each election to be held annually thereafter there will be elected, each for a term of two (2) years, two (2) Commissioners in even numbered years and three (3) Commissioners in odd numbered years.
- 4.4. Compensation. Commissioners will be reimbursed for all documented out-of-pocket expenses incurred by them in carrying out the responsibilities of their office. Commissioners may be compensated a fixed sum for each regular or special meeting of the Town Commission attended when authorized by a resolution adopted by at least four (4) Commissioners. The Treasurer, Town Secretary and Town Solicitor are to receive reasonable compensation for their services, as determined by the Commissioners. By unanimous vote of those members present at any 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 in the performance of the business of the Town. Any member requesting reimbursement must present documented proof of such expenditures. 83 Del. Laws, c. 170

Section 5. Election of Commissioners

- 5.1 Time, Place, and Notice of Annual Elections. The annual municipal elections are to be held the last Saturday in April. The polls must remain open for at least five (5) hours at such place as are determined by the Commissioners. The notice of elections must be conspicuously posted in at least one public place in Town at least twenty (20) days prior to the election date. The notice of elections must include the date, time, and place of the election, the candidates for office, and the qualifications to vote. All election notices must be posted in

accordance with Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law.

- 5.2 Notice of Solicitation of Candidates; Filing Deadline and Procedure. A notice of solicitation of candidates must be posted in at least one public place in town, at least twenty (20) days prior to the filing deadline. The notice of solicitation of candidates must identify the term or terms up for election, the filing deadline date, the procedure for declaring candidacy, and the qualifications for holding office. In order to be listed on the ballot at any regular Town election, each candidate must file a written and signed notice of intention to seek office with the Town, on a form prescribed by the Town, before five o'clock in the afternoon on the last Friday in March. Such form must contain an affidavit that the candidate meets all the qualifications for office.
- 5.3 Filing Certificate of Intention and Statement of Organization. All candidates must file a certificate of intention or statement of organization if either is applicable and required under Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law.
- 5.4 Determinations Concerning Qualifications. If it is determined that a candidate may not meet the qualifications for office, the President must call a special meeting of the Town Commission to be held at least twenty-one (21) days prior to the date of the election, at which the Town Commission will decide the matter. The candidate whose qualifications are at issue must be notified, by registered mail or personal delivery, of the date, time and place of the meeting at which he or she may appear and testify. If the Town Commission determines that the candidate does not meet the qualifications for office, it will reject the candidate's notice of intention and the candidate's name will not appear on the ballot. In making the determination, only those members of the Town Commission who are not competing candidates are entitled to vote on the question.
- 5.5 Compliance with State Regulations. The Town must follow the rules governing the conduct of elections and voting procedures, and must otherwise act in accordance with the state laws governing municipal voting, as found in Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law. The Town must implement the election provisions found in this Charter in accordance with the same state laws governing municipal voting. The Town may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the conduct of elections.
- 5.6 Voter Qualifications; Voter Registration. Any person will be qualified to vote who, on the date of the election:
- (a) is a United States citizen;
 - (b) has attained eighteen (18) years of age;
 - (c) has been a bona fide domiciliary (as defined in Section 4.2) in the Town for at least thirty (30) days immediately preceding the date of the election;
 - (d) has not been adjudged a mentally incompetent person by a court of competent jurisdiction; and
 - (e) has not been disenfranchised pursuant to sections 3 or 7 of Article V of the Constitution of the State of Delaware.
- Any person who is enlisted or engaged in any government service of the United States or any military organization of this State of the United States, which service requires them to reside outside the Town limits, will be considered a bona fide domiciliary of the Town of Hartly during the period of service so long as it remains their actual intention to retain the Town of Hartly as their fixed and permanent home. The Town Commission may enact ordinances concerning the registration of qualified voters for municipal elections in the Town as it deems reasonably necessary to provide for the orderly and efficient conduct of municipal elections, provided that no such ordinances may alter the qualifications of voters as hereinabove set forth, nor may any such ordinances unduly impair the right to vote in a municipal election.
- 5.7 Absentee Ballots. The Commission may (but is not required to), by ordinance, provide for a qualified voter (duly registered if required by ordinance) who is unable to appear in person to vote at any municipal election by absentee ballot. Whenever absentee voting is permitted, all notices must contain information about how to obtain an absentee ballot. All absentee voting authorized by the Town must be conducted in accordance with Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law.
- 5.8 Uncontested Elections. If the number of qualified candidates who file to run for office is not greater than the number of offices up for election, it is not necessary to hold an election and those qualified candidates who filed to run for office are deemed elected for the full term of the office. A notice of election cancellation must be advertised in the same manner that the notice of solicitation of candidates was advertised.

- 5.9 Election Results; ties; preservation of ballots and records. Within forty-eight (48) hours of the close of the election, the Board of Elections must count the votes, and the candidate(s) having the highest number of votes for each office is to be declared by the Board of Elections as elected to such office. In the event of a tie vote for any office, the Board of Elections may break such tie by the toss of a coin or any other method mutually agreed upon by the tied candidates. All ballots cast and all records of the election kept by the Board of Elections are to be preserved in the custody of the Board of Elections for a period of thirty (30) days, unless the election is contested or an appeal is filed in a court of appropriate jurisdiction, in which case such ballots and records are to be preserved until further direction of the reviewing body or court. No candidate may take office before the seventh day following certification of the election. 83 Del. Laws, c. 170

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

- 8.1 A Board of Election consisting of three (3) individuals must supervise each election. The Board of Elections members must be qualified voters of the Town and must not be an elected official or candidate for Town office or an immediate family member of such (mother, father, son, daughter, brother, sister, including half-brothers and sisters, step-family members and in-laws). The Board of Elections shall be appointed by the Town Commission at least twenty (20) days before an election and shall serve for a term of one year, provided that the Board's term shall not expire until a successor Board has been appointed. Members of the Board of Elections may serve for more than one term.
- 8.2 Each board member's name and contact information must be publicly posted in accordance with Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law. The Town will notify the State Election Commissioner and Kent County Department of Elections of the members appointed to the Board of Elections.

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- 8.3 The Board of Elections will oversee the absentee ballots and either appoints an odd number of absentee ballot judges or, at the discretion of the Town Commission, acts itself as the absentee ballot election judges. If, at the opening of the polls, there shall not be present all the members of the Board of Elections, the ranking Town officer available at the opening of the polls shall appoint a qualified voter or voters to temporarily fill such vacancies through the conclusion of the election. The Board of Elections may appoint election officers (including an inspector) when needed to administer elections. In the absence of the appointment of election officers, members of the Board of Elections must act as election officers, and the Board of Elections must designate one of the board members as the inspector.
- 8.4 Board Members are the sole and final judges of the conduct of the election and of the legality of the votes offered. The Board of Elections keeps a list of all voters voting at an election. The Board of Elections has power to subpoena persons and officers of the Town and books, records, and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered. 83 Del. Laws, c. 170

Section 9. Appointment of Town Officers Officer Duties; Bondedness

- 9.1 Appointment of Town Officers. Within a reasonable time after the election, the Commissioners, by majority vote, must appoint a President, Vice President, Treasurer, Town Secretary, Land Use Administrator, and such other officers, employees, and agents of the town which they may deem necessary and proper for the appropriate management of the Town. The President, Vice President, and Treasure must 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.
- 9.2. Duties of President. The President has the following duties:
- 9.2.1' Presides at all Commission meetings and sees that the laws, ordinances, rules, and regulations of the Town are faithfully executed;
 - 9.2.2 Is counted as a member of the Commission and votes on resolutions, motions and ordinances;
 - 9.2.3 Administers oaths and affirmations;
 - 9.2.4 Appoints all committees, subject to confirmation by the Commission;
 - 9.2.5 Is recognized as the head of the Town of Hartly; and
 - 9.2.6 May act on behalf of the Town, without prior Commission approval, in the event of some sudden emergency requiring prompt action in order to protect the public health, safety, and welfare of the Town, its residents and property owners. If reasonably possible, the President should notify each Commissioner, in writing, by U.S. mail, personal delivery, or email of the action so taken within forty-eight (48) hours. Any action taken by the President under the powers vested in the President under this section are as good as the act of the entire Commission, provided that the Commission may at a regular or special meeting held within fifteen (15) days of the President's action, cancel the further implementation of any such action not yet completed and notify any persons or legal entities affected.
- 9.3 Duties of Vice President. The Vice President performs those duties as assigned by the President or by ordinance or resolution adopted by the Commission. If the President is incapacitated from acting by reason of absence, death, or disability, or for any other cause whatsoever, then all powers and duties conferred and imposed upon the President by this Act, or any other law or any resolution or ordinance now or thereafter adopted or enacted by the Commission, are to be exercised and performed by the Vice President during such period of incapacity.
- 9.4 Duties of Secretary. The Secretary has general supervision of the Town's records and documents. The Secretary must cause to be kept a true and faithful record of the proceedings of the Town Commission. During the temporary absence or disability of the President and Vice President, the Secretary acts as President and while so acting, is vested with all the powers, duties, and authority of the President. The Secretary also has such other duties as directed by ordinance or resolution of the Town Commission.
- 9.5 Duties of the Treasurer. The Treasurer has custody and supervision of all monies and financial records belonging to the Town. The Treasurer is responsible for all of the following:
- 9.5.1 The disbursement of all monies and control over all expenditures to assure budget appropriations are not exceeded;
 - 9.5.2 Maintaining a general accounting system for the town in the form required by the Commission and in accordance with State Law;

- 9.5.3 Submitting at the end of each fiscal year, and at such other times as the Commission may require, a complete financial report to the Commission;
 - 9.5.4 Ascertaining that all taxable property within town jurisdiction is assessed for taxation;
 - 9.5.5 Collecting all taxes, special assessments, licenses, fees, liens, and all other revenues, including utility revenues, and all other revenues for whose collection the Town of Hartly is responsible;
 - 9.5.6 Maintaining custody of all public monies, belonging to or under control of the Town of Hartly, including maintaining custody of all bonds and notes of the Town of Hartly; and
 - 9.5.7 Doing such other things as the President and Commission may require or as may be required elsewhere in this Charter.
- 9.6 Duties of Land Use Administrator. The Land Use Administrator is responsible for the following:
- 9.6.1 Maintaining and regulating adherence to the Town of Hartly Comprehensive Land Use Plan and Zoning Ordinance;
 - 9.6.2 Issuing town permits, collecting fees, and monitoring adherence to said permits;
 - 9.6.3 Coordinating and overseeing contractual agreements and partnerships with other government bodies or organizations; and
 - 9.6.4 Such other things as the President and Commission may require or as may be required elsewhere in this Charter.
- 9.7 Duties of Town Solicitor. The Commissioners, by majority vote, must select and appoint a town solicitor for an indefinite term who is removable at the pleasure of the members of the Commission either with or without due cause stated. The town solicitor must be a member in good standing of the Bar of the State of Delaware. It is the solicitor's duty to give legal advice to the Commission and other officers of the Town, and to perform other legal services as may be required by the Commissioners.
- 9.8 Police Force. The Town Commission may establish and fund a municipal police force, consisting of one or more part-time or full-time police officers, and may employ such personnel as necessary to fill those positions within the police force as authorized and funded by the Commission.
- 9.8.1 All police officers with the authority to carry firearms and to make arrests with or without an arrest warrant must meet such standards and hold such certifications as required by and in accordance with state law.
 - 9.8.2 Each police officer is vested with all power and authority, within the Town limits, and within one mile of said limits, of a State Peace Officer. They shall be conservators of the peace and shall suppress all acts of violence and enforce all laws relating to the safety and protection of persons and property.
 - 9.8.3 The police officers are responsible for preserving peace and order and enforcing all ordinances enacted by the Town Commission within the limits of the Town. The police officers have the authority to enforce all criminal and motor vehicle laws enacted by the State of Delaware both within the limits of the Town and within one mile of the limits of the Town.
 - 9.8.4 The police officers have the power to issue summons, to arrest pursuant to a warrant issued by any court of competent jurisdiction, and to arrest without a warrant upon view of any violation of state law or of any ordinance of the Town relating to peace and good order. The police force may execute all warrants issued by any court of competent jurisdiction directed to such officers. In the case of a pursuit of an offender, the power and authority of the police force may extend outside the territorial limits of the Town to any part of the State.
- 9.9 Police Chief. The Commission may appoint a Chief of Police to serve at the direction of the Commission, who may be dismissed, demoted, or otherwise removed by the Commission in accordance with Chapter 93 of Title 11 of the Delaware Code, as amended, and any future corresponding provisions of law. The Chief of Police is responsible for the operational control of the daily routine and responsibilities of the police force. The authority of the Chief of Police is subordinate and answerable to the President and the Commission. The Commission may elect to not renew a Chief of Police's employment contract without a finding of just cause or holding a hearing under Chapter 93 of Title 11 of the Delaware Code, as amended, and any future corresponding provisions of law. In the event that the police force consists of only one police officer, that officer shall be classified as the Chief of Police.
- 9.10 Auditor. An independent auditor is to be appointed annually by the Town Commission to audit the accounts of the Town and all of its officers whose duty involves the collection, custody and payment of the moneys of the Town. The auditor must, on or before the date set by the Town Commission, annually make and deliver a detailed report of any and all accounts, records, and books examined and audited, which report shall be under the auditor's hand and seal. The auditor, in performing the auditor's duties, may access all records and

accounts of the offices of the Town Commission, and the auditor is hereby authorized and empowered to employ such clerks as in the auditor's judgment may be necessary in the proper performance of the auditor's duties.

- 9.11 Compensation. The Commission is to establish the salaries and compensation of employees, officers and agents of the Town and the time and manner of payment, which salaries or compensations may not be increased without a majority vote of the Commission.
- 9.12 Bondedness. The Town Commission may, at the Town's expense, require any Town officer, agent, or employee to be bonded by a commercial bonding company in such amount and according to such terms as deemed necessary and appropriate by the Town Commission. 83 Del. Laws, c. 170; 83 Del. Laws, c. 283, § 49

Section 10. Official Oath of Office

The President, Vice-President, Treasurer, Secretary, Land Use Administrator, and 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. 83 Del. Laws, c. 170

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

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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 impose, upon new development or construction or upon first time occupancy of new construction, such "impact fees" as are reasonably and proportionally calculated to recover the cost of installing, enlarging, improving, or expanding public or municipal improvements which have a rational nexus to such new construction; and/or to contribute to the costs of operations of those volunteer fire companies and/or ambulance or paramedic companies providing services within the Town.
- (p) 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 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 are to be exempt from all state, county or municipal taxes. The Commissioners may borrow on the full faith and credit of the Town of Hartly such sum or sums not exceeding the collective amount of Twenty-Five Thousand Dollars (\$25,000) for all such loans when, in the opinion of a majority of the Commissioners of the Town of Hartly, the needs of the Town require it. The Commissioners may borrow on the full faith and credit of the Town sums in excess of Twenty-Five Thousand Dollars (\$25,000) but not exceeding Five Hundred Thousand Dollars (\$500,000) if such borrowing is approved by a majority referendum vote of the voters of the Town of Hartly qualified to vote in municipal elections pursuant to Section 5.6. Notice of the holding of such referendum election must be authorized by resolution of the Commissioners, published in a newspaper of general circulation in the Town of Hartly at least 15 days prior to the date of the referendum. Such notice must 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 must 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 for all loans shall not exceed Five Hundred Thousand Dollars (\$500,000), 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 removed any structure which, upon inspection by the Land Use Administrator or the Land Use Administrator's designee, 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.

- (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 Land Use Administrator 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.
- (z) May license, tax and collect fees of such various amounts as the Town Commission fixes from time to time from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation, or renting out any real or personal property, within the limits of the Town.
- (aa) May grant licenses and impose fees for licenses, issue permits, and regulate any activity within the corporate limits of the Town.
- (bb) May grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such consideration as the Town Commission deems in the best interest of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, sidewalks, crosswalks, and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, railroad (excepting railroads or railways engaged in Interstate Commerce), bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof; provided, however, that whenever any state or federal law grants jurisdiction over any such activity to a state or federal agency, the Town has no authority inconsistent therewith.
- (cc) May regulate and control the exercise of any license or franchise mentioned in Section (bb) of this Charter, or intended so to be.
- (dd) May define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and to cause the cost of such abatement or removal to be paid by the legal entity causing or permitting same to exist. 83 Del. Laws, c. 170

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 on such dates and times as established by resolution of the Town Commission . 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. 83 Del. Laws, c. 170

Section 14. Rules and Journal

The Commission may determine its own rules of procedure and order of business. The Town Secretary keeps a public record of its proceedings. 83 Del. Laws, c. 170

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) Unless revised by ordinance duly adopted by the Town Commission, the Town's fiscal year runs from January 1st through December 31st of each year.
- (b) Annually each year and not later than sixty (60) days prior to the beginning of the next fiscal year, a rough draft of the Town Budget is prepared by or under the direction of the Treasurer. 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 contains, at a minimum, the following information:
 - (1) An itemized statement of all estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;

- (2) 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
 - (3) 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 may be displayed in a public place in the Town of Hartly and on any website of the Town, at least 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.
- 83 Del. Laws, c. 170

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 obtains 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 Kent 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. The Treasurer has 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 is 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, yard maintenance, building permit, and street lighting charges. This list shall be the official assessment list of the Town and the Town is authorized to collect all amounts added to the assessment list in the same manner as the Town is authorized to collect outstanding taxes. If corrections need to be made, the Commissioners, by recorded majority vote, may make all needed corrections. 83 Del. Laws, c. 170

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 by posting notice in at least one public place in Town and on any website of the 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 date, time and place of the assessment appeals meeting. 83 Del. Laws, c. 170

Section 22. Assessment Appeal Meeting

The assessment appeal meeting shall be held no later than June 30th of each year and shall be kept open from at least 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. 83 Del. Laws, c. 170

Section 23. Town Treasurer

The Treasurer shall be the collector and receiver of all taxes and all other moneys due or belonging to the town. These moneys 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. 83 Del. Laws, c. 283, § 49

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 moneys 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 moneys, books, papers and other things or effects in the Treasurer's care and keeping, or with which he may properly be chargeable. 83 Del. Laws, c. 283, § 49

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

- 26.1 The Treasurer is to proceed to collect those amounts on the assessment list immediately after receiving the assessment list from the Commission.
- 26.2 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 ten (10) years from the date prescribed herein for the delivery of the assessment list to the Treasurer, provided that if the real estate remains the property of the person or legal entity who was the owner at the time it was so assessed, the lien will continue until the same is collected in full. 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.
- 26.3 In the collection of delinquent taxes (including any and all charges, costs, or other assessments owed to the Town and added to the assessment list pursuant to Section 20), the Treasurer has all of the same powers, remedies, and authority, including the monition method of the collection of taxes, as conferred by Title 9 of the Delaware Code, as amended, and any future corresponding provisions of law, upon those individuals and/or departments authorized to collect delinquent taxes in Kent County. Before instituting any legal action for the collection of taxes, written notice of the amount due must be sent to the taxable at the taxable's last known address.
- 26.4 In effecting a collection of any delinquent tax or any other charges, costs, or assessments due to the town and added to the tax assessment list, the Town may recover the costs of collection, including all court costs, sale costs, reasonable and necessary out-of-pocket expenses, and reasonable attorney's fees incurred by the Town in the collection proceedings. The collection costs constitute a lien on all of the real estate of the taxable, becoming a part of, relating back to, and having the same preference and priority as the lien of the underlying amounts owed. 83 Del. Laws, c. 170

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 moneys shall be paid out by the Treasurer except as directed by action of a majority of the Commissioners and signed by the President. 83 Del. Laws, c. 283, § 49

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) The Town must 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. 83 Del. Laws, c. 170

Section 33. Town May Pave When Owner Refuses

If, within three months, any Person fails, neglects or refuses 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 Land Use Administrator is responsible for supervising any such work or repair ordered by the Commissioners. 83 Del. Laws, c. 170

Section 34. Expenses, How Recovered

When work ordered under Section 31 is completed, the Town shall recover all the costs and charges incurred, including any skillful superintendent's charges for 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. 83 Del. Laws, c. 170

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 Land Use Administrator or the Land Use Administrator's designee is 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. 83 Del. Laws, c. 170

Section 36. [Reserved]

83 Del. Laws, c. 170

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.

- 37.1 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.
- 37.2 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.
- 37.3 The Commissioners shall have the power to enact ordinances, rules and regulations regarding the surface drainage of the Town. The Land Use Administrator or the Land Use Administrator's designee is responsible for the daily supervision of the surface drainage of the Town, under the direction of the Commissioners. 83 Del. Laws, c. 170

Section 38. Street Lighting

- 38.1 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.
- 38.2 The Commissioners may 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.
- 38.3 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.
- 38.4 The Land Use Administrator or the Land Use Administrator's designee is responsible for the daily supervision of the street lighting, under the direction of the Commissioners. 83 Del. Laws, c. 170

39. Actions or Suits.

No action, suit, or proceeding may be brought or maintained against the Town of Hartly, its officers (including the members of any board, commission, or agency), employees, or agents, whether now, hereafter, or previously serving as such, and no judgement, damages, penalties, costs, or other money entitlement may be awarded or assessed against the Town, its officers, (including the members of any board, commission, or agency) employees or agents, whether now, hereafter or previously serving as such, in any civil suit or proceeding at law or in equity, or before any administrative tribunal, arising out of, connected with, or on account of any physical injury or injuries, death, or any other type of personal injury, (including libel or slander), or injury to property (whether real or personal) unless the person by or on behalf of whom such claim or demand is asserted, within one year from the happening of the incident giving rise to such injury, notifies the Town of Hartly in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such

notice must be directed to the President of the Town of Hartly by certified mail with return receipt requested and postage prepaid. 83 Del. Laws, c. 170

40. Recovery of Legal Expenses Incurred in Enforcement of Town Ordinances and/or Collection of Amounts Due to the Town.

Whenever it becomes necessary or expedient for the Town to file any legal action or proceeding to enforce compliance with a Town ordinance and/or to collect an amount due to the Town before any court or administrative agency having jurisdiction thereof, if the Town is the prevailing party in such action, the court or administrative agency having jurisdiction is authorized, in the exercise of its reasonable discretion, to award judgement to the Town in an amount deemed appropriate by it to reimburse the Town for its costs of prosecution, including court costs, expert witness fees, reasonable attorney's fees, and other documented out-of-pocket expenses incurred in connection with such prosecution; provided however, that in order to recover such amounts under this section, the Town must, prior to the filing of such legal action or proceeding, make written demand upon the responsible party for compliance with the ordinance and/or payment of the amount due (as the case may be), which written demand must include notice of this provision of the Town Charter. 83 Del. Laws, c. 170

41. Survival of Powers and Validating Section.

- (a) All the powers conferred upon or vested in the President and Commission of the Town by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the Town and its President and Commission precisely as if each of said powers was expressly set forth in this Charter.
- (b) All ordinances adopted by the President and Commission and in force at the time of approval, acceptance, and going into effect of this Charter are continued in force until the same or any of them are repealed, modified or altered by the President and Commission under the provisions of this Charter.
- (c) All of the acts and doings of the President and Commission or of any official of the Town Commission which have been lawfully done or performed under the provision of any law of this State or of any ordinance of the Town or under any provision of any prior Charter of the Town Commission prior to the approval, acceptance, and going into effect of this Charter are hereby ratified and confirmed, unless otherwise provided herein.
- (d) All taxes, assessments, license fees, penalties, fines, and forfeitures due to the President and Commission or the Town are due to the Town, and all debts from the Town or the President and Commission will remain unimpaired until paid by the Town.
- (e) All powers granted by this Charter with respect to the collection of taxes, license fees, assessments, or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments, or other charges heretofore lawfully imposed by the President and Commission.
- (f) The bonds given by or on account of the President or any official of the Town Commission are not impaired or affected by the provisions of this Charter.
- (g) If any part of this Charter is found to be unconstitutional or invalid by a Court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions of this Charter.
- (h) This Charter is to be taken as and deemed to be a Public Act of the State of Delaware. 83 Del. Laws, c. 170

Approved July 19, 1983.

64 Del. Laws, c. 210; 83 Del. Laws, c. 170; 83 Del. Laws, c. 283