

## **Henlopen Acres**

### **Incorporation**

#### **Section 1.**

The inhabitants of the Town of Henlopen Acres, in Sussex County, are hereby constituted a municipal corporation and body politic by and under the name of "The Town of Henlopen Acres", hereafter referred to as Corporation or Town, with power to govern themselves by such ordinances, rules, resolutions and regulations for municipal purposes as they, through their duly elected officers and agents, may deem proper, not in conflict with the provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, or of the United States. 59 Del. Laws, c. 18

### **Territory And Limits**

#### **Section 2.**

The present territorial limits of the Town of Henlopen Acres are hereby established and declared to be as follows:

ALL those three certain adjoining pieces or parcels of land and premises situate, lying, and being in Lewes and Rehoboth Hundred, Sussex County and State of Delaware, north of the Town of Rehoboth and east of the United States Inland Waterway known as the "Lewes and Rehoboth Canal", bounded on the north by lands of Daniel G. Anderson; on the northwest and west by lands of said United States Inland Waterway; and on the south and southeast, in part by the north boundary line of the Town of Rehoboth, in part by the north line of Henlopen Avenue, and in part by certain State lands; and on the east and northeast by the mean high-water line of the Atlantic Ocean, be the contents of said parcels of land whatsoever they may, and being all the same lands described in and conveyed as Parcels Number 1, Number 2, and Number 3, by that certain deed of Wilbur S. Corkran and Louise C. Corkran, his wife, unto Henlopen Acres, Inc. (a Corporation of the State of Delaware), bearing date the 14th day of July, 1930, and of record in the office of the Recorder of Deeds of the State of Delaware, in and for Sussex County, at Georgetown, Delaware, in Deed Record D.H.X., Vol. 280, Page 220; and also being the same lands and premises delineated as Parcels Number 1, Number 2, and Number 3, on "Plat of Lands in Lewes and Rehoboth Hundred, Sussex County, Delaware, Conveyed by Wilbur S. Corkran and Louise C. Corkran, his wife, to Henlopen Acres, Inc.", which plat is now of record in the Office of the Recorder of Deeds, in and for Sussex County aforesaid, in Deed Record D.H.X., Vol. 280, Page 598.

### **Structure Of The Government**

#### **Section 3.**

The government of the Town and the exercise of all power conferred by this Charter, except as otherwise provided herein, shall be vested in the Commissioners of Henlopen Acres. The Commissioners of Henlopen Acres shall consist of seven (7) members, to be chosen as hereinafter provided. One of said Commissioners shall have the title of Mayor of the Town of Henlopen Acres, with duties hereinafter to be prescribed, and who shall also be President of the Commissioners of Henlopen Acres. 59 Del. Laws, c. 18

### **General Powers**

#### **Section 4.**

- (a) The inhabitants of the Town of Henlopen Acres within the limits and boundaries referred to in Section 2 of the Act, or within the limits and boundaries hereafter established shall be and they are hereby created a body politic and corporate in law and equity by the corporate name of "The Town of Henlopen Acres," hereinafter called the Town and under the name shall have perpetual succession, may have and use a corporate seal which may be altered, changed or renewed at pleasure; may sue and be sued, plead and be impleaded in all Courts of law and equity in the State of Delaware, and elsewhere, by said corporate -name, may hold and acquire by purchase, gift, devise, lease or by condemnation real property and personal property within or without its boundaries for any municipal purposes, in fee simple or for lesser estate or interest, any may sell, lease, hold, manage and control such property as its interest may require and may do all other things which a body politic and corporate may lawfully do to carry out and effect the object and purposes of this Act, subject, however, to other sections of this Act.

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## CHARTER OF HENLOPEN ACRES

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As hereinafter provided in this Charter relative to power to issue bonds, the Town shall have all other powers and functions requisite to or appropriate for the Government of the Town, its peace and order, its sanitation, beauty, the health, safety, convenience, comfort and well being, of its population, and the protection and preservation of property, public and private; and all actions, suits or proceedings shall be brought in the name of "The Town of Henlopen Acres."

- (b) The enumeration of particular powers by this Charter shall not be held to be exclusive, or to restrict in any manner the general powers conferred herein, but in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise thereof it is intended that the Town of Henlopen Acres shall have, and may exercise, all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate. All powers of the Town of Henlopen Acres whether expressed or implied, shall be exercised as prescribed by this Charter or; if not prescribed herein, by ordinance or resolution of the Commissioners.

### Annexation

#### Section 4A

The Commissioners of Henlopen Acres shall have the power to annex additional territory adjoining the corporate limits of the Town of Henlopen Acres as hereinbefore set forth or as hereafter extended pursuant to the following procedure:

- (a) The Commissioners of Henlopen Acres shall adopt a Resolution proposing to the property owners and residents of both the Town of Henlopen Acres and of the territory proposed to be annexed that the Town of Henlopen Acres proposes to annex certain territory which adjoins its then limits and territory. The Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for public hearing on the subject of the proposed annexation. The Resolution setting forth the information shall be printed in a newspaper of general circulation in the Town of Henlopen Acres and in the territory proposed to be annexed at least one (1) week prior to the date set for the public hearing, or, at the discretion of the Commissioners of Henlopen Acres, the said Resolution may be posted in four (4) public places both in the Town of Henlopen Acres and in the territory proposed to be annexed. 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 of Henlopen Acres ordering a Special Election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. The passage of this Resolution shall ipso facto be considered the determination of the Commissioners of Henlopen Acres to proceed with the matter of the proposed annexation; PROVIDED HOWEVER, that if the territory proposed to be annexed includes only territory property which is exempt from taxation or which is not assessed on the books of the Board of Assessment of Sussex County, no election shall be necessary and the Commissioners of Henlopen Acres may proceed following the public hearing to annex such territory by the adoption of a second Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the Commissioners of Henlopen Acres. Following the passage of such Resolution, the Commissioners of Henlopen Acres shall proceed to have a plot made of the territory so annexed and such plot together with the description thereof shall be filed for record in the Office of the Recorder of Deeds, in and for Sussex County. The territory so proposed for annexation shall be deemed to be annexed as of the date of the adoption of such Resolution.
- (b) If an election is necessary, the time and place of holding the said Special Election shall be printed within thirty (30) days immediately preceding the date of the Special Election in at least two (2) issues of a newspaper of general circulation both in the Town of Henlopen Acres and in the territory proposed to be annexed, or, in the discretion of the Commissioners of Henlopen Acres, the said notice may be posted in five (5) public places both in the Town of Henlopen Acres and in the territory proposed to be annexed at least fifteen (15) days prior to the date of the said Special Election.
- (c) At the said Special Election, every property owner, whether an individual, a partnership, or a corporation, both in the Town of Henlopen Acres and in the territory proposed to be annexed, shall have one (1) vote for each One Hundred Dollars (\$100.00) of assessment as shown by the books of the Town of Henlopen Acres in the case of Town property owners and leaseholders as defined herein and of the records of the Board of Assessment of Sussex County in the case of property owners and leaseholders as defined in the territory proposed to be annexed. Each leaseholder holding land under a valid lease for a term of not less than ten (10) years whose lease is recorded in the Office of the Recorder of Deeds, in and for Sussex County, and who has erected upon his or her leasehold an improvement having an assessed evaluation of at least One Thousand

Dollars (\$1,000.00) shall be entitled to one (1) vote for each One Hundred Dollars (\$100.00) of assessment as shown by the records of the Town of Henlopen Acres in the case of town leaseholders and by the records of the Board of Assessment of Sussex County in the case of leaseholders in the territory proposed to be annexed. Every citizen of either the Town of Henlopen Acres or the territory proposed to be annexed who is not a property owner or leaseholder as herein defined shall have one (1) vote. In the case of property owned or leased, as aforesaid, by a husband and wife jointly, the husband and wife shall each have one (1) vote for each Two Hundred Dollars (\$200.00) of assessment). In the event that a person owns or leases, as aforesaid, property both in the Town of Henlopen Acres and in the territory proposed to be annexed and resides in either place, he may vote only where he resides. In the event that a person owns or leases, as aforesaid, property both in the Town of Henlopen Acres and not in the territory proposed to be annexed but does not reside in either place, he may vote only in the Town of Henlopen Acres and not in the territory proposed to be annexed. Property owners and leaseholders as herein defined, whose property or whose improvements located on leased land are exempt from taxation or is not assessed shall not be entitled to vote. The books and records of the Town of Henlopen Acres in the case of Town property owners or leaseholders, as herein defined, and the books and records of the Board of Assessment of Sussex County and in the case of property owners or leaseholders, as herein defined, in the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and leaseholders to vote at the Special Election.

(d) In the event that an individual, partnership or corporation holds a power of attorney duly executed and acknowledged and specifically authorizing the said individual, partnership or corporation to vote at the said Special Election, a duly authenticated copy of the Power of Attorney shall be filed in the Office of the Commissioners of Henlopen Acres. Said Power of Attorney as so filed shall constitute conclusive evidence of the right of said person, partnership or corporation to vote in the Special Election.

(e) The Commissioners of Henlopen Acres shall cause to be prepared, printed and have available a sufficient number of ballots not less than five (5) days prior to the date of the Special Election. The form of the ballot shall be as follows:

THIS BALLOT CASTS . . . . . VOTES

( ) For the proposed annexation

( ) Against the proposed annexation

CHECK ONE

(f) The President of the Commissioners of Henlopen Acres shall appoint three (3) persons to act as a Board of Special Election, at least one of whom shall reside or own property in the Town of Henlopen Acres, and at least one of whom shall reside or own property in the territory proposed to be annexed. One of the persons so appointed shall be designated the Presiding Officer. Voting shall be conducted at a place within the Town of Henlopen Acres designated by the Commissioners of Henlopen Acres and the Board of Election shall have available, clearly marked, two (2) ballot boxes. All ballots cast by those persons, partnerships or corporations authorized to vote as residents, property owners or leaseholders as herein defined in the territory proposed to be annexed shall be deposited in one (1) such ballot box, and all ballots cast by those persons, partnerships or corporations who are authorized to vote as residents, property owners or leaseholders, as herein defined, of the Town of Henlopen Acres shall be deposited in the other such ballot box. The polling places shall be open from one o'clock in the afternoon, prevailing time, until six o'clock in the afternoon, prevailing time, on the date set for the Special Election.

(g) Immediately upon the closing of the polling places, 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 number of votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the Commissioners of Henlopen Acres. The said certificate shall be filed with the papers of the Commissioners of Henlopen Acres.

(h) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the Town of Henlopen Acres and from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the referendum results in an unfavorable vote for annexation, a subsequent election may be held at any time. If a favorable vote for annexation shall have been cast, the Commissioners of Henlopen Acres shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, in Georgetown, Delaware, and in no event shall such recordation be completed more than ninety (90) days following the favorable referendum. The territory considered for annexation shall be considered to be a part of the Town of Henlopen Acres from the time of recordation. The failure of the Commissioners of Henlopen Acres 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 day of the favorable election. 59 Del. Laws, c. 89

### **Qualifications Of Mayor And Commissioners And Voters**

#### **Section 5.**

The qualifications for Mayor and Commissioners shall be as follows:

- (a) Each of the seven Commissioners of Henlopen Acres, at the time of the approval of their qualifications by the Town Commissioners, as hereafter provided or at the time of their appointment, as the case may be, and throughout his or her term of office, shall have attained the age of 21 years of age, and shall be eligible to vote under the provisions of this Section.
- (b) Each shall be a non-delinquent taxable of the Town, as to all property taxes levied or assessments made by the Town.
- (c) At least four of the seven Commissioners must be bona fide residents of the Town, but all may be residents of the Town. The Commissioner with the title of Mayor of the Town of Henlopen Acres shall be a bona fide resident of the Town for at least one year prior to the date of the annual election.
  - (1) Any person who, on the date of the filing of notice of intention to run (or on the date of his or her appointment to fill a vacancy), has been a bona fide resident of the Town for at least one year prior to the date of the annual election and certifies his or her intention of remaining a bona fide resident of the Town, shall be deemed to be a "resident" Commissioner upon taking office, whether or not such person is also a Real Property Owner in the Town; and if such person subsequently fails to remain a bona fide resident of the Town, that person shall be deemed to have vacated his or her office by reason of that fact alone, except that if such person continues to be a Real Property Owner in the Town, during his or her term of office, that person shall be deemed a "non-resident" Commissioner so long as at least four Commissioners are bona fide residents of the Town of Henlopen Acres.
  - (2) Any person who, on the date of filing of the notice of intention to run (or on the date of his or her appointment to office in the case of a vacancy), is not a bona fide resident of the Town but is a Real Property Owner for at least one year prior to the date of the annual election shall be deemed to be a "non-resident Commissioner." If such "non-resident" Commissioner subsequently becomes a bona fide resident of the Town during his or her term of office, that person shall continue to be deemed to be a "non-resident" Commissioner; provided, however, that if any non-resident Commissioner shall, during his or her term of office, cease to be a Real Property Owner in the Town, that person shall be deemed to have vacated his or her office by reason of that fact alone, unless that person has subsequently become a bona fide resident of the Town.
- (d) The Commissioners shall be judges of the qualifications of their members.
- (e) For purposes of this Charter, a "Real Property Owner" shall be deemed to include any person or artificial entity that holds at least a 50% fee simple interest in real property in the Town as an individual owner, a joint tenant, a tenant by the entireties, or a tenant in common.

The qualifications for voter eligibility shall be as follows:

- (f) Every citizen of the United States, State of Delaware, and Town of Henlopen Acres who is a bona fide resident of the Town of Henlopen Acres for thirty (30) days prior to the date of the annual election of the Town of Henlopen Acres, and is over the age of Eighteen (18) shall be entitled to One (1) vote, provided such person is registered on the Books Of Registered voters.
- (g) Every non-resident Real Property Owner, whether a person, or artificial entity, qualifying as a Real Property Owner for a period of thirty (30) days immediately preceding the date of the Annual Municipal Election of the Town of Henlopen Acres shall have one vote.
  - (1) A non-resident shall be a citizen of the United States and at least 18 years old or an artificial entity established under the laws of the United States, provided such person or artificial entity is registered on the Books of Registered Voters.
  - (2) An artificial entity shall vote by a person named in a certificate, filed for each election with the Town of Henlopen Acres, providing legal authorization for the person to vote on behalf of the artificial entity in the Annual Municipal Election. The person authorized to vote on behalf of an entity shall be a citizen of the United States and at least 18 years old.

- (h) These provisions shall be construed in accordance with the principle of "one-person, one vote": If a voter is entitled to vote by virtue of being both a resident of the Town of Henlopen Acres and a Real Property Owner, the voter is entitled to only One (1) vote; if a voter is entitled to vote by ownership of two or more parcels of real property, the voter is entitled to only One (1) vote. One may not vote as an individual, and again as an agent for one or more artificial entities. Additionally, one may not vote as an agent for multiple entities.
  - (i) The Commissioners may, by ordinance, provide for a voter registration procedure.
- 59 Del. Laws, c. 18; 73 Del. Laws, c. 159; 73 Del. Laws, c. 361; 75 Del. Laws, c. 165; 76 Del. Laws, c. 346; 79 Del. Laws, c. 248;

### **Election In General**

#### **Section 6.**

- (a) At the Annual Election to be held on the last Saturday in August, 2005, three (3) Commissioners shall be elected. The two candidates receiving the highest vote totals will be deemed to be elected for a term of three (3) years and the third highest will be deemed elected for a term of two (2) years.
- (b) At the Annual Election to be held on the last Saturday in August, 2006, four (4) Commissioners shall be elected. The two candidates receiving the highest vote totals will be deemed elected for a term of three (3) years, the third highest will be deemed elected for a term of two (2) years, and the fourth highest will be deemed elected for a term of one (1) year.
- (c) At the Annual Election to be held on the last Saturday in August, 2007, two (2) Commissioners shall be elected for a term of three (3) years.
- (d) At the Annual Election to be held on the last Saturday in August, 2008, three (3) Commissioners shall be elected for a term of three (3) years.
- (e) At the Annual Election to be held on the last Saturday in August, 2009, two (2) Commissioners shall be elected for a term of three (3) years.
- (f) Thereafter, the terms of the Commissioners shall be staggered so that at each Annual Municipal Election, there shall be elected Commissioners who shall serve for a term of three (3) years or until their successors have been duly elected and qualified. 75 Del. Laws, c. 165

### **Elective Offices**

#### **Section 7.**

- (a) The six (6) offices of Commissioner of Henlopen Acres and the office of Commissioner of Henlopen Acres with the title of Mayor of the Town of Henlopen Acres, with duties hereinafter to be prescribed shall be elective. All other offices shall be appointive and the person or persons filling such appointive offices shall be appointed by the Commissioners of Henlopen Acres.
- (b) The office of a Commissioner shall become vacant upon death, incapacity, resignation, loss of residence or freeholdership, as may be applicable, or forfeiture of such office.
  - (1) Forfeiture proceedings. A forfeiture of such office shall occur when any Commissioner:
    - a. Is no longer qualified to hold such office;
    - b. Willfully violates any provision of this Charter;
    - c. Is convicted of any felony; or
    - d. Fails to attend fifty percent (50%) of four (4) consecutive regular and/or special meetings of the Commissioners without being excused by vote of the Commissioners.
  - (2) Determination concerning Forfeiture. Where the conditions set forth in paragraph (b)(1) are alleged, forfeiture shall be approved by the remaining Commissioners. Such decision shall be made in executive session, and if the Commissioners determine by majority vote that a forfeiture has occurred, they shall, within forty eight (48) hours thereafter, provide written notice thereof to the affected Commissioner, by certified mail, return receipt requested, sufficiently posted. Written notice shall be deemed provided when deposited in first-class mail with sufficient postage. The affected Commissioner shall be entitled to a hearing and then shall have thirty (30) days in which to make a written request for a public hearing before the Commissioners, which hearing is to be held within forty five (45) days of the written request and at

which hearing such Commissioner may appear with the assistance of counsel and present evidence to relevant issues. The Commissioners shall also hear any other relevant evidence and vote again on the question of forfeiture. A determination of forfeiture shall be made only by unanimous vote of the Commissioners present and entitled to vote on the question.

- (3) Failure to Request Hearing as a Bar. Failure of the affected Commissioner to make written request for a public hearing as hereinabove stated shall be an absolute bar to his or her right to challenge the Commissioners' decision. If a public hearing is held, the Commissioners shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done on behalf of the affected person if requested, in writing, by him or her.
- (c) Any vacancy created in the office of Commissioner of Henlopen Acres or in the office of Commissioner of Henlopen Acres having the title of Mayor of the Town of Henlopen Acres, the Commissioners of Henlopen Acres shall fill such vacancy for the residue of the whole term.

75 Del. Laws, c. 165

### Organization Meeting

#### Section 8.

- (a) An organization meeting of the Commissioners of Henlopen Acres shall be held after seven days following the annual election. At the organization meeting the Commissioners elected shall elect one of the Commissioners as the presiding officer of the Commissioners of Henlopen Acres for the term of one year. If the Commissioners are unable to elect one of their number as a presiding officer then such officer shall be chosen for the Commissioners by lot by the Commissioners. The presiding officer shall be called the "Mayor". 59 Del. Laws, c. 18; 76 Del. Laws, c. 346;
- (b) The Commissioners of Henlopen Acres, shall meet for the purpose of organization at the usual place for holding meetings of the Commissioners of Henlopen Acres. The newly elected Commissioners shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, a Justice of the Peace or by a holding over member of the Commissioners. The Commissioners shall likewise select a Secretary from their own number until the Organization Meeting after the next succeeding annual election. They may also choose an Assistant Secretary to serve as aforesaid. and such other officers and employees as may be determined to be necessary. 73 Del. Laws, c. 21
- (c) The Commissioners shall by resolution fix the amount of any salaries or compensation of the employees, officers and agents of the Town, and the time and manner of his or her, or their payment; Provided, that the salary or compensation of any such employee, officer or agent shall not be increased, during the term of said office should said appointment thereto be for a designated term. No officer, employee or agent of the Town shall in any form have, take, or receive from the Town any compensation, in any form, in addition to the salary or compensation fixed by the Commissioners. 72 Del. Laws, c. 110; 73 Del. Laws, c. 21;
- (d) The Commissioners shall cause to be kept a full and complete record of all officers appointed, and employees and agents hired by the Town, containing the names of such officers, employees and agents, the dates of their employment, any salary or compensation to be by them received and the date of the termination of their services. In the event that they shall hold their office for an indefinite term, the record shall so state.

### Method Of Filing For Office Of Town Commissioner

#### Section 9.

The candidates for Town Commissioner shall file their notice of intention to seek office in the following manner:

- (a) Each candidate shall file with the Town Manager or Mayor of the Town of Henlopen Acres at or before 4:30 p.m. on the second Friday in July preceding the Annual Municipal Election letter or other certificate setting forth that he will be a candidate for a certain designated office, such letter to be effective shall be received prior to the time set forth herein. 59 Del. Laws, c. 18; 70 Del. Laws, c. 346; 76 Del. Laws, c. 346;

### Manner Of Holding Elections

**Section 10.**

- (a) Annual municipal elections shall be held on the last Saturday in the month of August, from 9:00 a.m. to 12:00 noon at such place or places as shall be determined by the Commissioners, due notice of which shall be given by publication in one newspaper of general circulation within the Town and by posting in one conspicuous place, at the Town Hall or other conspicuous place determined by the Commissioners, not less than twenty (20) days before the day of such annual election. 76 Del. Laws, c. 346
  - (1) In the event that no person files or is nominated for each office for which an election is to be held within the time set forth in Section 9 of this Charter, the incumbent shall be deemed to be reelected for a full term and it shall not be necessary to hold an election; and
  - (2) In the event that only one (1) person files or is nominated for each office for which an election is to be held within the time set forth in Section 9 of this Charter, the person who files or is nominated shall be deemed to be elected for a full term, and it shall not be necessary to have an election. 74 Del. Laws, c. 16
- (b) Voting machines shall be used in all Annual Municipal Elections in which there is a contest for any elective office. 59 Del. Laws, c. 18; 74 Del. Laws, c. 16;
- (c) Every election shall be held under the supervision of an Election Board. The Election Board shall consist of one (1) Inspector of the Election and two (2) Judges of the Election. The Judges and Inspector constituting the Election Board shall be qualified voters of the Town and shall be appointed for that purpose by the Town Commissioners at least 60 days before such election. If, at the opening of the polls, there shall not be present the three (3) members of the Election Board, or any one of them, then in such case the persons qualified to vote at such election and then present at the opening of the polls shall, by viva voce, select a qualified voter or voters to so act as a member or members of the Election Board. Members of the Election Board shall be Judges of the Election and shall decide upon the legality of the votes offered. The Election Board shall keep a true and accurate list of all voters voting. The Election Board shall have the power to subpoena persons, and officers of the Town, and books, records and papers relative to the determination of the validity of any vote or votes offered. 76 Del. Laws, c. 346
- (d) Upon the close of the election, the votes shall be read and counted publicly and the persons having the highest number of votes shall be declared, by the Election Board, to be duly elected, and such persons shall continue in office during the terms for which they were chosen, or until their successors are duly elected or appointed and qualified.
- (e) In the event of a tie vote for any office, the Election Board shall determine the tie by lot.
- (f) All ballots cast and all records of the election kept by the Election Board shall be preserved in the custody of the Election Board for the period of ten days, save and excepting those ballots offered by persons who shall not have satisfied a majority of the Election Board that he or she or they possessed the qualifications of a Town elector as prescribed by this Charter.
- (g) The Election Board shall enter in a book, to be provided for that purpose, a minute of the election, containing the names of the persons chosen. They shall subscribe the same and shall give to the persons elected certificates of their election. The book, containing such matters, shall be preserved by the Town Commissioners and shall be evidence in any Court of Law and Equity.
- (h) The Town may provide for absentee balloting by ordinance.
- (i) Members of the Election Board shall be the sole and final judges of the conduct of the elections, the legality of votes offered and the election results. 73 Del. Laws, c. 21
- (j) The procedures enacted by the General Assembly as Subchapter IV, Municipal Elections Except for the City of Wilmington under Title 22, §101A, and Subchapter V, Absentee Voting in Municipal Elections Except for the City of Wilmington, under Chapter 75, Title 15 of the Delaware Code, are included and incorporated herein by reference. 76 Del. Laws, c. 346

**Regular And Special Meeting****Section 11.**

- (a) The Town Commissioners of Henlopen Acres shall hold at least one meeting in the first month of each quarter of the year. Special meetings shall be called by the Secretary upon the written request of the Mayor of the Town of Henlopen Acres or upon the written request of any three members of the Town Commissioners, stating the day, hour and place of the special meeting request, and the subject or subjects proposed to be considered.

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## CHARTER OF HENLOPEN ACRES

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- (b) The Town Commissioners of Henlopen Acres shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at such special meeting, called as aforesaid, as the Town Commissioners have at regular monthly meetings.
- (c) All meetings shall be held in some place in the Town of Henlopen Acres and shall be open at all times to the lawful voters of the Town excepting during such time or times as the Town Commissioners shall deem it advisable to discuss any matter in executive session; provided, however, that no vote or ballot shall be taken by the Town Commissioners of Henlopen Acres upon any question or matter coming before it except in open, public session and any vote or ballot taken by the Town Commissioners upon any matter or subject while in executive session shall be absolutely null and void.

### Quorum

#### Section 12.

A majority of the members elected to the Town Commissioners of Henlopen Acres shall constitute a quorum.

### Rules Of Procedure And Minutes Of The Town Commissioners

#### Section 13.

The Commissioners shall determine their own rules of procedure and order of business. It shall keep a record of its proceedings and the record shall be open to public inspection. Every ordinance shall be introduced in writing. No ordinance shall be passed unless it shall have the affirmative vote of a majority of the Commissioners. Vote on any ordinance shall be by voice vote and the vote of each Commissioner on any ordinance shall be entered on the record.

### Duties And Powers Of The Mayor

#### Section 14.

- (a) The Mayor of the Town of Henlopen Acres shall be sworn or affirmed to perform the duties of his office with fidelity.
- (b) He shall be the chief executive of the Town. It shall be his duty to preside at all meetings of the Commissioners and he shall have a vote therein and in case of his absence a President pro tempore shall be appointed in this place. He shall execute on behalf of the Town when authorized by a majority of the Commissioners all agreements, contracts, bonds, deeds, leases and other documents necessary to be executed. He shall have the power to appoint the other six Commissioners to be in charge of any departments or divisions of the Town Government created by the Commissioners. The Mayor shall be a member, ex-officio, of all committees. It shall be the duty of the Mayor to see that the laws and ordinances of the said Town are faithfully executed and the Mayor shall perform all duties imposed upon him by this Charter. The Mayor shall also have the power to administer oath and affirmation. 73 Del. Laws, c. 21
- (c) As a Commissioner of Henlopen Acres and as Mayor of the Town of Henlopen Acres, he shall have the same right as other commissioners to vote on all matters and may at any time appoint another Commissioner to preside if he desired to make a motion, move the adoption of a resolution, second either, or debate any question from the floor and may thereafter immediately resume his duties as presiding officer.
- (d) Upon the expiration of this term of office or upon resignation or removal from office, he shall forthwith turn over all records, books, papers, documents and other things belonging to or appertaining to his office of Mayor of the Town of Henlopen Acres. He shall also pay over to the Treasurer all monies in his hands belonging to the Town.

### Town Manager

#### Section 15.

- (a) The Commissioners of Henlopen Acres shall appoint a Town Manager.
- (b) Upon the appointment of a Town Manager the duties shall be prescribed by the Commissioners.
- (c) The Town Manager shall not be a member of the Town Commissioners. 79 Del. Laws, c. 247

- (d) He shall receive as compensation for his services an annual salary to be fixed, from time to time, by resolution of Commissioners. 79 Del. Laws, c. 247
- (e) He shall attend all meetings of the Commissioners and keep proper and adequate minutes of its acts and proceedings and keep a correct journal of the same in a book or books provided for that purpose, said journal must show all bills approved by the Commissioners, the amount of said bills and to whom payable; and he shall be in attendance at his office on such days and between such hours as may be directed by ordinance or resolution of the Commissioners.
- (f) He shall keep a record of all officers, agents and employees of the Town, when elected or appointed, the terms of office or employment, if a term be fixed, and the salary or compensation thereof.
- (g) He shall keep the assessment books and tax records of the Town with the names of the taxpayers arranged alphabetically showing the tax, a short description and assessed value, as determined by the Commissioners, of each parcel of real estate and a short description of each item of personal property assessed, if any. He shall also keep and maintain proper books and records showing the names of persons charged with utility rentals or service charges and detailed account thereof.
- (h) He shall collect all taxes, license fees, utility rentals assessments and all other money due to be paid to the Town under the provisions of this Charter, or as prescribed by ordinance or resolution of the Commission; and he shall keep separate, full and accurate accounts of all money received and due to be paid to the Town.
- (i) He shall keep full and accurate accounts of all money paid out for or on account of the various departments and agencies of the Town together with proper vouchers.
- (j) He shall perform such other responsibilities and duties as the Mayor and Commissioners may assign. 70 Del. Laws, c. 346; 73 Del. Laws, c. 21;

#### **The Treasurer**

#### **Section 16.**

- (a) A Treasurer of the Town of Henlopen Acres shall be appointed by the Town Commissioners of Henlopen Acres at their annual meeting hereinbefore provided. He shall hold his office for the term of one year from the date of his appointment at such annual meeting or if he be appointed to fulfill an unexpired term, his appointment shall expire one year from the date of the annual meeting immediately preceding his appointment.
- (b) The Treasurer must be a resident Commissioner of the Town of Henlopen Acres. 76 Del. Laws, c. 346
- (c) The compensation, if any, to be received by the Treasurer of Henlopen Acres shall be fixed by the Town Commissioners of Henlopen Acres.
- (d) The Treasurer or the Treasurer's designated agent shall be the custodian of all the funds of the Town. The Treasurer or the Treasurer's designated agent, shall deposit them in banking institutions prescribed by the Town Commissioners and the Treasurer shall maintain an accounting system in the form required by the Commissioners.
- (e) He shall perform such other duties as may be provided by this Charter, or as prescribed by ordinance or resolution of the Commissioners.
- (f) The Treasurer shall supervise the disbursement of all monies and have control of expenditures to assure reasonable compliance with budget estimates.
- (g) He shall cause to be kept a true, and accurate and detailed account of all monies received and of all monies paid out by him. He shall preserve all vouchers for monies paid out by him and his books and accounts shall, at all times, be open to inspection by the Commissioners. He shall make such reports and at such times as the Commissioners shall direct.
- (h) He shall prepare, in conjunction with the Mayor and the Town Manager, an annual budget to be submitted to the Commissioners. 70 Del. Laws, c. 346; 79 Del. Laws, c. 247;

#### **Auditors**

#### **Section 17.**

- (a) Three Auditors of Accounts who shall be freeholders of the Town shall be appointed by the Commissioners at each annual meeting hereinbefore provided to serve for the term of one year or until their successors shall have been duly appointed and qualified.

- (b) It shall be their duty to audit the accounts of the Town and all of its officers whose duty involves the collection, custody and payment of monies to the Town. They shall audit the books of the Mayor of the Town of Henlopen Acres, and the records of all fines, penalties and costs imposed or collected by him pursuant to any judgment, order, or decree made. The auditors on or before the 15th day of August, annually, next following their appointment, shall make and deliver a detailed report of every and all accounts, records, and books by them examined and audited, which report under their hands and seals shall be printed in a newspaper which has general circulation in the Town in the issue immediately succeeding their annual report. The Auditors, in the performance of their duties, shall have access to all records and accounts of the offices of the Town Commissioners and they are authorized and empowered to employ such clerks and accountants as in their judgment may be necessary in the proper performance of their duties at such compensation as may be determined by the Commissioners.

#### **Town Solicitor**

##### **Section 18.**

The Commissioners may select and appoint a Town Solicitor for an indefinite term who shall be removable at the pleasure of the Commissioners of Henlopen Acres either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware with offices in Sussex County. It shall be his duty to give legal advice to the Commissioners and other offices of the Town and to perform other legal services as may be required of him by the Commissioners.

#### **Police Force**

##### **Section 19.**

- (a) The Town Commissioners may, in their discretion, make rules and regulations as may be necessary for the organization, government and control of a Police Force. They shall preserve peace and order, and shall compel obedience within the Town limits to the ordinances of the Town and the Laws of the State of Delaware. They shall have such other duties as the Town Commission shall from time to time prescribe. The Police Force shall be subject to the direction of the Town Manager acting in behalf of the Town Commissioners.
- (b) The Town Commissioners may, if it is deemed necessary, make rules and regulations for the organization of a Beach Patrol. The Beach Patrol would, if so organized, enforce regulatory measures ordained by the Commissioners in respect to the cleanliness, uses and enjoyment of the Town Beach front; and, would perform such other duties as the Commissioners may prescribe. In the performance of their duties, they would be vested with all the powers and authorities of a member of the Town Police Force. 72 Del. Laws, c. 110

#### **Board Of Assessment**

##### **Section 20.**

- (a) A Board of Assessment may be appointed by the Commissioners of Henlopen Acres for an indefinite term. The Board of Assessment shall consist of two members all of whom shall be over the age of twenty-one (21) years, bona fide residents of the Town of Henlopen Acres and freeholders of the Town.
- (b) They shall be sworn or affirmed by the Mayor of the Town of Henlopen Acres, or by a Justice of the Peace of the State of Delaware, to perform their duties with fidelity and without favor. It shall be their duty to make a fair and impartial assessment of property and persons subject to taxation situated within the Town and to perform such other duties in reference thereto as shall be prescribed, from time to time, by the Town Commission of Henlopen Acres.
- (c) The compensation, if any, to be by them received for the performance of their duties and the hiring of any necessary employees to assist them in the performance of their duties shall be fixed by and subject to the approval of the Town Commission of Henlopen Acres.

#### **Assessment Of Taxes**

**Section 21.**

(a)

- (1) The Commissioners may, by resolution, adopt as the annual assessment for the Town of Henlopen Acres, the assessment for real estate and improvements located thereon as compiled by the Board of Assessment of Sussex County, or, in the alternative, the Commissioners or the Board of Assessment, if appointed as set forth in this Charter, may, by May 1 prior to the beginning of the next fiscal year, make a just, true and impartial annual valuation or assessment of all real estate and improvements located thereon located within The Town of Henlopen Acres.
  - (2) In making such assessment, the rules and exemptions now applicable by law to the making of a County assessment of property shall be applicable insofar as consistent with the provisions of this Charter.
  - (3) All real estate shall be described with sufficient particularity to be identified. Real estate shall be assessed to the owner or owners if he or they be known. If the owner or owners of real estate cannot be found or ascertained, it may be assessed to "Owner Unknown." A mistake in the name of the owner or owners or a wrong name or an assessment to "Owner Unknown," shall not affect the validity of the assessment of any municipal tax or assessment based thereon; provided, however, the assessment shall specify the last record owner or owners thereof as the same shall appear from the records in the Office of the Recorder of Deeds, in and for Sussex County.
- (b) The Board of Assessment, after making such annual assessment, shall, prior to the end of the fiscal year, deliver to the Commissioners of The Town of Henlopen Acres a list containing the names of all persons assessed and the amount of assessment against each. They shall also deliver at such time as many copies of said list as the Commissioners shall direct.
- (c) The annual assessment shall distinguish the real and personal assessment of each person and shall also be arranged so that the land and the improvements thereon shall appear in separate columns or spaces. In making this assessment, the Board shall make its valuation accordingly.
- (d) The real property of the several members of the Board of Assessment shall be assessed by the Commissioners of The Town of Henlopen Acres.

(e)

- (1) Except if the Commissioners adopt the assessment compiled by Sussex County, immediately upon making the annual assessment list or receiving it from the Board of Assessment, the Commissioners shall cause a full and complete copy of the same, containing the amount assessed to each taxable to be posted in a public place in The Town of Henlopen Acres and there it shall remain for a period of at least ten (10) days for the information of and examination by all concerned. Appended thereto shall be posted a notice advertising to all concerned that upon a certain day mentioned therein and not earlier than ten (10) days after the date of posting of the true and correct copy of the annual assessment list and notices that, at a meeting in June of the Commissioners, the Commissioners will hold a court of appeals at which time and place they shall hear appeals from the said annual assessment. There shall also be published in a newspaper of general circulation within the Town, not later than ten (10) days prior to the appeals hearing, a notice that the annual assessment list and the notice of the appeal date have been posted at Town Hall or other designated public place. The decision of the Commissioners sitting as the Board of Appeals shall be final and conclusive and said Commissioners shall revise and complete said assessment at this sitting. No member of the Commissioners shall sit upon his own appeal but the same shall be heard and determined by the other Commissioners.
- (2) The members of the Board of Assessment shall be present on the day fixed for hearing appeals and shall furnish to the Commissioners such information and answer such questions as the Commissioners may require in respect to any assessment for which an appeal has been taken. The Commissioners shall have the authority to enforce the attendance of the Board of Assessment by appropriate process.
- (3) Pending determination of the appeal, the property owner may either pay the tax imposed by the assessment and, if on appeal the assessment is reduced, the property owner shall be entitled to a refund of the taxes which he has overpaid plus interest thereof at the rate of 1½% per month for each month or fraction thereof from the date of payment or the property owner may decline to pay the tax imposed by the assessment in which case interest and penalty shall accrue at the rate of 1½% per month for each month or fraction thereof that the taxes remain unpaid from the expiration of 30 days following the date such taxes become delinquent pursuant to Section 23 of this Charter.

- (4) All taxes imposed by the assessment list and paid more than 30 days following the date that notice is published by the Board of Assessment or posted as provided in this section shall be delinquent. 59 Del. Laws, c. 18; 70 Del. Laws, c. 346; 77 Del. Laws, c. 42;

### Supplemental Assessments

#### Section 21A.

- (a) In addition to the annual assessment provided for in Section 21 of this Charter, the Board of Assessment may, at its option, prepare a quarterly supplemental assessment list for any of the following purposes:
- (1) Adding property which was not included on the last annual assessment.
  - (2) Increasing the assessed value of property which was included in the last assessment;
  - (3) Correcting errors on the prior annual assessment;
  - (4) Revising or modifying any exemption from taxation applicable to property within the Town;
- (b) The supplemental assessment list shall be prepared quarterly by the Commissioners of Henlopen Acres or the Board of Assessment, if appointed as set forth in this Charter, and the first such supplemental assessment shall be certified to the Commissioners on August 1, the second on November 1, the third on February 1, and the fourth on May 1 of each year. 77 Del. Laws, c. 42
- (c) On the date of certification of the supplemental assessment list to the Commissioners by the Board of Assessment each property owner shall be liable for the payment of real estate taxes equal to the assessed value of the property multiplied by the tax rate for the then current fiscal year applicable to the property reduced by twenty-five percent (25%) when the property is listed on the second supplemental assessment list fifty percent (50%) when the property is listed on the third supplemental assessment list and seventy-five percent (75%) when the property is listed on the fourth supplemental assessment list and the amount of such tax, together with any interest, penalty and collection charge shall be a lien for a period of ten (10) years from the date of certification of the supplemental assessment list to the Commissioners by the Board of Assessment and such lien shall have preference and priority to all other liens created or suffered on real estate or upon leaseholds or upon improvements located on land under lease as prescribed in this Charter although such lien or liens be of a date prior to the time of the attaching of such lien for taxes.
- (d) Whenever the Board of Assessment places a property on a supplemental assessment list, he shall deposit notice thereof in the regular mail addressed to the owner of the property affected thereby at the address shown on the assessment list, or if the address of such owner does not appear on the assessment list, then to the person occupying the property, or if there is no apparent occupant, such notice shall be posted on the property. Such notice shall be given no later than the date on which the supplemental list on which the property appears is certified to the Commissioners by the Board of Assessment. The certification by the Board of Assessment that the notice required by this Subsection was mailed or posted, as the case may be, shall be conclusive evidence that notice to the property owner was received.
- (e) The Board of Assessment shall publish a notice of the place or places where the supplemental assessment list may be inspected together with a notice of the time and place in the Town when the Commissioners, not earlier than ten (10) days from the date of the last publication, shall sit, to hear appeals. There shall be published in a newspaper of general circulation within the Town, not later than ten (10) days prior to the appeals hearing, a notice that the supplemental assessment list and the notice of the appeal date have been posted at Town Hall or another designated public place. The decision of the Commissioners sitting as a Board of Appeals, shall be final and conclusive and the said Commissioners shall revise and complete the said supplemental assessment at this sitting. No Commissioner shall sit upon his own appeal but the same shall be held and determined by the other members of the Commissioners. 77 Del. Laws, c. 42
- (f) Pending determination of the appeal, the property owner may either pay the tax imposed by the supplemental assessment and if on appeal the assessment is reduced, the property owner shall be entitled to a refund of the taxes which he has overpaid plus interest thereon at the rate of one and one Half Percent (1½%) per month for each month or fraction thereof from the date of payment or the property owner may decline to pay the tax imposed by the supplemental assessment in which case, interest and penalties shall accrue at the rate of one and one half percent (1½%) per month for each month or fraction thereof that the taxes remain unpaid from the expiration of thirty (30) days following the date of mailing or the posting of the notice, as the case may be, required by this Section. 77 Del. Laws, c. 42

- (g) In the collection of all taxes imposed by the supplemental assessment list, there shall be no deduction nor abatement of the taxes and the Town Manager shall add an amount equal to one and one half percent (1½%) per month for each month or fraction thereof that such taxes remain unpaid following the expiration of thirty (30) days from the date of mailing or posting, as the case may be, of the notice required under this Section. 77 Del. Laws, c. 42
- (h) All taxes imposed by the supplemental assessment list and paid more than thirty (30) days following the date that notice is mailed by the Board of Assessment to the property owner or posted as provided for in this Section shall be delinquent. 68 Del. Laws, c. 427; 70 Del. Laws, c. 346;

### **Levy Of Annual Taxes**

#### **Section 22.**

- (a) At a meeting in June, after having revised and completed the assessment, the Town Commission shall determine, to their best judgment and knowledge, the total amount necessary to be raised by the Town to meet all fixed and anticipated expenses and obligations of the Town including reasonable and appropriate reserves, for the then current fiscal years as set forth in the Town Budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies. 59 Del. Laws, c. 18; 77 Del. Laws, c. 42;
- (b) They shall then proceed to determine, in their sole discretion, from which sources of the authorized revenues of the Town the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect to any such source, the amount to be raised from each such source.
- (c) The Commissioners of Henlopen Acres shall then proceed to determine, assess, fix and/or levy the following:
  - (1) the rate of tax on real estate and on improvements located thereon per One Hundred Dollars (\$100.00) of assessed value; and/or
  - (2) the amount of personal or per capita tax upon each qualified voter; and/or
  - (3) the rate of tax upon all poles, construction, erections, wires and appliances, more particularly mentioned or intended so as to be in subsection 26 (25) of this Charter, as amended; and/or
  - (4) the several rates to be charged for furnishing water service, sewer service, electric service, gas service; and/or
  - (5) the several license fees to be charged for carrying on or conducting of the several businesses, professions, or occupations more particularly mentioned or intended so as to be in Section 26 (26) of this Charter, as amended; and/or
  - (6) the rates or fees to be charged in respect to any other authorized source of revenue in their best judgment and estimation in order to realize the amount to be raised from each source determined by them to be used, as aforesaid; provided, however, that sources 4, 5 and 6 may be determined, fixed, assessed, levied and/or altered or changed upon other than a fiscal year basis and at any other regular or special meeting of the Commissioners of Henlopen Acres as they, in their discretion, shall determine. 59 Del. Laws, c. 18
- (d) Immediately after the meeting at which the Commissioners determine, assess, and/or levy taxes, rates and fees, the Town Commissioners shall make, or cause to be made, a full, true and correct annual tax list showing the amount of tax levied against each taxable thereon from sources mentioned above. This list shall be known as the Annual Tax List of the Town of Henlopen Acres. In addition to the information contained in the assessment list, it shall likewise contain information as to the rate of tax upon real estate and upon improvements located thereon per One Hundred Dollars (\$100.00) of assessed value thereof. 59 Del. Laws, c. 18; 77 Del. Laws, c. 42;
- (e) The Commissioners shall cause to be delivered to the Town Manager a duplicate of said annual tax list, and the Town Manager shall immediately proceed to collect the same as hereinafter provided. 70 Del. Laws, c. 346
- (f) Nothing contained in this Charter shall be construed to effect or impair in any way the validity of any tax, fee, assessment, or other charge lawfully levied, assessed, or due the Town of Henlopen Acres under existing laws in reference to said Town and the same are hereby declared to be valid, binding and vested in the Town of Henlopen Acres created hereby.

### **Collection Of Annual Taxes**

#### **Section 23.**

- (a) The Town Manager, as soon as the Commissioners shall have placed in his hands the duplicate annual tax list, shall proceed at once to collect the taxes on said duplicate list.
- (b) All taxes so laid or imposed by the Commissioners of Henlopen Acres in such annual tax list, shall be and constitute a lien upon all the real estate of the taxable, against or upon whom such taxes are laid or imposed, of which such taxable was seized or possessed, at any time after such taxes shall have been levied and imposed, that is situated in the Town of Henlopen Acres. Such lien shall have preference and priority to all other such liens on real estate or upon improvements located on land under lease, as aforesaid, created or suffered by said taxable although such other lien or liens be of a date prior to the time of the attaching of such lien for taxes, provided that the lien for such town taxes shall remain a lien for a period of ten (10) years from the date of the certification of the annual assessment to the Commissioners. 77 Del. Laws, c. 42
- (c) All taxes, when and as collected by the Town Manager shall be paid to the Treasurer of Henlopen Acres, and all taxes shall be due and payable at and from the time of the delivery of the tax list to the Town Manager.
- (d) On all taxes paid after the first day of September next succeeding the delivery of the annual duplicate tax list to the Town Manager, there shall be added an amount equal to 1 1/2% per month for each and every month such taxes shall remain unpaid and shall be collected in the same manner as the original amount of the tax. 59 Del. Laws, c. 18; 74 Del. Laws, c. 16;
- (e) If the Town Manager shall be unable, within one year of the date of the delivery of the duplicate annual tax list to him, to collect the tax of any taxable, he is authorized and empowered, to collect such tax from such taxable by any of the processes of law. 70 Del. Laws, c. 346

#### **Remedies, Powers And Methods For The Collection Of Taxes, Assessments And Other Charges Due The Town**

##### **Section 24.**

- (a) A remedy by distress as now prescribed by law is hereby preserved to the Town Manager for the collection of any taxes, assessments, license fees, warrants or other charges for which he may be responsible.
- (b) The Mayor or the Town Manager, when any tax becomes delinquent, may, in the name of the Town of Henlopen Acres, institute suit before any Justice of the Peace or in the Court of Common Pleas of the State of Delaware, in and for Sussex County, or in the Superior Court of the State of Delaware, in and for Sussex County, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas, or in the Superior Court, as the case may be.
- (c) Should the Mayor or Town Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of the delinquent taxpayer alienated subsequent to the levy of the tax by the direction of the Town Commissioners using any of those procedures specified for the sale of land for the collection of taxes on the part of the individuals charged with the responsibility for the collection of taxes for Sussex County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference thereto, including the method of sale by monition, as the same is set forth in the statutes made and provided, substituting the Town of Henlopen Acres for Sussex County therein.
- (d) All taxes imposed by the Town shall be and constitute a lien for a period of ten (10) years from date so levied upon the real property against which such charges are imposed. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any charges so levied. Such lien shall have preference and priority to all other prior liens on such real property, although such lien or liens be of a time and date prior to the time of attaching of such lien for taxes. 70 Del. Laws, c. 346; 70 Del. Laws, c. 347;

#### **Town Budget**

##### **Section 25.**

- (a) The fiscal year for the Town of Henlopen Acres shall be from July 1st of one year to June 30th of the next succeeding year; provided, however, that for the period from the end of the present fiscal year until June 30, 1973, the Commissioners of Henlopen Acres shall provide a pro-rated budget.
- (b) Annually each year and not later than the last week in May, the Town Manager and the Treasurer shall prepare a rough draft of a Town Budget. From this rough draft, the Commissioners of Henlopen Acres shall, not later

than July 10th of each year, prepare the Town Budget, containing the financial plan for conducting the affairs of the Town of Henlopen Acres for the ensuing fiscal year. 59 Del. Laws, c. 18; 70 Del. Laws, c. 346;

- (c) The Budget shall contain the following information:
1. A detailed estimate showing the expense of conducting each department and 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 a schedule of maturities of bond issues.
  4. An itemized statement of all other estimated expense to be incurred in the affairs of the Town.
  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".
  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 Town Commissioners shall, so far as possible, adhere to the Budget so adopted in the making of appropriations.

### **Enumeration Of Powers**

#### **Section 26.**

- (a) Not by way of limitation upon the power vested in the Town Commissioners to exercise all powers delegated by this Charter to the municipal corporation of the Town Commissioners of Henlopen Acres except as may expressly appear herein to the contrary, but, rather by way of enumeration and for purposes of clarity, the Town Commissioners are vested by this Charter with the following powers, which may be exercised by said Commissioners in the interest of good government and the safety, health, and welfare of the Town, its inhabitants and affairs, that is to say.
1. To provide for and preserve the health, peace, safety, cleanliness, ornament and good order of the Town.
  2. To prohibit, or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements, and games.
  3. To ascertain locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair, or replace any new or present street, highway, lane, alley, watercourse, park, lake, strand, crosswalk, wharf, dock, sewer, drain, aqueduct or pipe line, or portion thereof, or any new or present sidewalk, curb or gutter, or portion thereof, in the Town, to specify the grade thereof, the materials to be used in the doing there of and the manner in which the same shall be done; and to enter into contracts or agreements for the doing thereof, including contracts or agreements with the State Highway of the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other highway within the Town.
  4. To define, prevent, abate or remove nuisances, obstructions or any condition detrimental to the public safety, health or welfare.
  5. To provide an ample supply of pure water for the Town and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in and about the collection, storage, purification, conveyance, distribution or sale of water; to regulate and prescribe for what private or public purposes the water furnished by the municipal corporation may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury or damage to or interference with the water system or equipment of the Town; to furnish, or refuse to furnish, water from the Town system to places and properties outside the Town limits; and to contract for and purchase water and distribute same to users within or without the Town with the same full powers as though such water has been initially reduced to usefulness by the municipal corporation itself. For all purposes of this Charter, the word "user" when referring to the users of either the public water system or the public sewer system shall be deemed to mean either the owner to whom the real estate is assessed or a leaseholder who holds land under a valid lease and whose lease is of record in

the Office of the Recorder of Deeds, in and for Sussex County, and who has erected upon the leasehold an improvement having an assessed valuation of at least one Thousand Dollars (\$1,000.00).

6. To provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town; to regulate and prescribe for what private or public purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plant or facilities; to furnish or refuse to furnish, sewer disposal service from the Town system to places and properties outside the Town limits; in the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town; and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefore of the municipal corporation itself.
7. To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, boardwalks or fills for the preservation of any strand or high land within the limits of the Town or contiguous thereto, to the end that the same may be preserved, property protected and the general public might enjoy the use thereof.
8. To direct, regulate and control the planting, rearing, treatment and preserving of ornamental shade trees in the streets, highways, avenues, parks and grounds of the Town and to authorize or prohibit the removal or destruction of said trees.
9. To direct the digging down, draining, filling up, cleaning, cutting, or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter.
10. To provide for or regulate the numbering of houses and lots on the streets, and the naming of streets and avenues.
11. For the prevention of fire and the preservation of the beauty of the Town, to regulate and control the manner of building or removal of dwelling houses and other buildings; to establish a code for the same and provide for the granting of permits for the same; to establish a building line for buildings to be erected; zone or district the Town and make particular provisions for particular zones or districts with regard to building or building materials; and, generally to exercise all the powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 179, Revised Code of Delaware, 1935, and all amendments thereto.
12. To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping offices of the Town.
13. To regulate or prevent the use of guns, airguns, spring guns, pistols, sling shots, beanshooters, and any other devices for discharging missiles which might cause bodily harm or injury to property; and to regulate or prevent the use of fireworks, bombs, and detonating works of all kinds.
14. To establish fire limits and do all things necessary for the prevention or extinguishment of fires; and, in their discretion, to contribute, donate or give an amount or amounts, not to exceed in the total during any given fiscal year three percentum (3%) of the total taxes levied on real estate, unto any Volunteer Fire Company or Companies incorporated under the Laws of Delaware, or any Volunteer Fire Association or Associations maintaining and operating fire fighting equipment and service to the Town.
15. To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, tapping fee, charge growing out of abatement of nuisances and the like, laying out and repairing sidewalks, or other charge due the Town and to sell the same.
16. To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon. 59 Del. Laws, c. 18
17. To determine from which authorized sources and in what proportions taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the municipal corporation and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness.
18. To provide for the collection of and disbursement of all monies 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 the Charter.

19. To 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 kinds or forms of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Commissioners of Henlopen Acres shall select for the payment of the principal thereon and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town of Henlopen Acres shall be exempt from all State, County or Municipal taxes; provided, however, that in no event shall the indebtedness of the Town of Henlopen Acres, for any and all purposes, at any time, exceed in the aggregate fifteen percent (15%) of the assessed value of all real estate, including improvements thereon, located within the corporate limits of the Town of Henlopen Acres subject to assessment for the purpose of levying the annual tax hereinbefore mentioned. 59 Del. Laws, c. 18
20. To acquire, and/or to vacate the use of, lands, tenements, personal, 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 municipal corporation by the Charter.
21. To 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.
22. To inquire into and investigate the conduct of any officer, office, agent, or employee of the Town or any municipal affair, and for any such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and production of books, papers or other evidence by summary process.
23. To make, adopt and establish all such ordinances, regulations, rules and by-laws, not contrary to the laws of this State and the United States, as the Commissioners may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the Town, the protection and preservation of persons and property and of the public health and welfare of the Town and its inhabitants; provided, that any ordinance relating to the public health of the Town and its inhabitants, or designed to prevent the introduction or spread of infectious or contagious diseases, or to prevent nuisances affecting the same, shall apply not only within the corporate limits of the Town,
24. To levy and collect taxes upon all telephone, telegraph, power poles, pipelines, rail lines or other constructions or erections of a like character erected within the corporate limits of the Town, together with the wire or other appliances thereto or thereon attached; expressly excepting all telephone, telegraph, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in interstate commerce, for any and all purposes, and to this end may at any time direct the same to be included in or added to the Town Assessment. In case the owner or Lessee of such constructions or erections, wires or other appliances shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies for the collection of taxes set forth in Section 27 of this Charter, the Commissioners of Henlopen Acres shall have the authority to cause the same to be removed.
25. To license, tax, and collect fees annually for any and all municipal purposes (including the cost and expense of advertising the Town) of such various amounts as the Commissioners of Henlopen Acres from time to time shall fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the corporate limits of the Town of Henlopen Acres; provided, however, that nothing herein shall be so construed as to make it mandatory upon a resident of the State of Delaware to apply for a license in order to sell in the Town of Henlopen Acres farm produce or products grown upon a farm owned by the vendor or any member of his family with whom he resides.
26. To levy and collect a person or per capita tax upon all persons otherwise qualified to vote at any Annual Municipal Election to be used for any and all municipal purposes and not to exceed the sum of Five Dollars (\$5.00) in any one year for each such person. 59 Del. Laws, c. 18
27. To borrow money in anticipation of revenues on the full faith and credit of the Town of Henlopen Acres such sum or sums not exceeding Five Percent (5%) of the assessed value of all real estate, including improvements thereon, located within the corporate limits of the Town of Henlopen Acres subject to assessment in any one (1) year when, in the opinion of a majority of the Commissioners of the Town of Henlopen Acres, the needs of the Town require it. Any sum so borrowed shall be secured by a promissory note or notes of the Town of Henlopen Acres, duly authorized by Resolution adopted by the Commissioners of the Town of Henlopen Acres, and signed by the Mayor of the Town of Henlopen Acres

and attested by the Secretary of the Commissioners of the Town of Henlopen Acres with the corporate seal affixed, and no officer nor member of the Commissioners shall be liable for the payment or payments 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 Five Percent (5%) of the assessed value of all real estate, including improvements thereon, located within the corporate limits of the Town of Henlopen Acres subject to assessment; and provided further, that any sum of money so borrowed, as aforesaid, in any fiscal year shall be paid from the general fund of the Town and shall be completely repaid at any time, but must be completely paid at the end of ten (10) fiscal years following the first fiscal year when such sum or sums were borrowed, with interest thereon; and provided further, that such ad valorem taxes shall be levied as is necessary to pay the principal of and interest on said indebtedness as is required without regard to any other limitation concerning the maximum rate of taxation and such note or notes and the interest thereon shall be exempt from all taxation and such note or 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. 66 Del. Laws, c. 15; 68 Del. Laws, c. 427; 72 Del. Laws, c. 110;

### **Collection Of Charges Due The Town**

#### **Section 27.**

- (a) In the collection of water rentals, license fees, tapping fees, charges growing out of abatement of nuisances, laying out and repairing sidewalks, or other charges due the Town and authorized to be levied and charged against the owner or owners of property within the Town, the collection thereof shall be under the supervision of the Town Manager. It shall be the duty of the Town Manager to collect all such rentals, bills, fees, and charges. He shall, in conjunction with the police force keep the Commissioners advised as to any and all failures or neglects to pay the same.
- (b) In respect to the amount of any such water rentals, license fees, tapping fees, charges growing out of abatement of nuisances, laying out and repairing sidewalks, or other charges due the Town and authorized to be levied and charged against the owner or owners of property within the Town, and which owner or owners of property within the Town shall have failed or neglected to pay the same within the time prescribed by the provisions of this Charter, or a duly adopted Ordinance of said Town and should the required procedure, if any there be, have been complied with as regards the imposition thereof against such owner or owners, the Town Commissioners shall issue a warrant to the Town Manager directing him to collect the same against the person or persons, firm or firms, corporation or corporations from which it shall be due, together with interest from the due date and other charges attendant thereto. Thereafter, from the date of the issuance of any such warrant or warrants, the amount or amounts therein provided shall be and constitute liens upon the respective property or properties of such owner or owners upon which or for which any such rentals, bills, fees or other charges shall have been made and such liens shall, for a period of two years from the date of such warrant or warrants, have priority over any liens, encumbrances or conveyances except tax liens, general or special sewer assessment liens and prior liens of a like nature.
- (c) Nothing contained in this Section shall be construed as a limitation upon the Commissioners of Henlopen Acres to establish and fix fines, or other penalty, in a proper case, for neglects or failures nor shall any fines imposed by a judicial officer with reference to any such neglects so enrolled or failures be construed as being within the provisions, hereof. 70 Del. Laws, c. 346; 72 Del. Laws, c. 110;

### **Removal Of Obstructions, Nuisances, And Unsanitary Conditions**

#### **Section 28.**

- (a) In addition to the power to impose fines and penalties for the maintenance of obstructions, nuisances, and unsanitary conditions, as those terms may be defined by the Commissioners, if the Commissioners either upon their own inspection or upon information obtained from the Town Manager or Police Force, shall deem that such obstruction, nuisances, or unsanitary condition ought to be removed or abated as the case may be, the Commissioners shall enact an ordinance or adopt a resolution, or both, to that effect and thereupon shall direct the Town Manager to forward. to the person or persons continuing or causing such obstruction, nuisances, or unsanitary condition, or to the person or persons who are responsible for its existence or continuance, by the mails of the United States, in a sealed wrapper addressed to his or their last and best known post office address, a notice to remove or abate the same as soon as may be possible. If such person or persons refuse

or neglect, for the space of five (5) days after such notice is mailed, to remove or abate the same, the Commissioners may have a warrant issued in the name of the Commissioners of Henlopen Acres. The warrant shall command him forthwith to remove or abate such obstruction, nuisance, or unsanitary condition. The Town Manager shall forthwith proceed to remove or abate the same and, to that end, he shall have full power and authority to enter into and upon any lands and premises in the Town. He shall likewise have the authority to take with him such assistants, implements, vehicles or other things as may be necessary and proper to do and perform all matters and things in connection with the removal or abatement of such obstruction, nuisance, or unsanitary condition.

- (b) At the regular monthly meeting of the Town Commissioners next succeeding the delivery of the warrant to him, the Town Manager shall make a return to the Commissioners of his proceedings upon the warrant and shall specify the costs and expenses of all necessary work, labor, and proceedings incurred by him in the abatement or the removal of the same.
- (c) At such meeting, the Commissioners shall determine, from the return of the Town Manager, the costs and expenses of all necessary work, labor, and proceedings in reference to the abatement or removal of such obstruction, nuisance, or unsanitary condition. The Commissioners shall issue or have issued a warrant, containing an itemized account of that information, together with the name and last and best known address of the person from whom the Commissioners shall determine the amount to be due and shall deliver such warrant to the Town Manager. The warrant shall command him forthwith to collect the amount stated to be due thereon from the person or persons designated therein. The Town Manager shall forward to such person or persons, in a sealed wrapper, a true and correct copy of the warrant by depositing the same in the United States mails and addressed to such person's or persons' last and best known post office address. If such person or persons shall refuse or neglect to pay the same to the Town Manager for the use of the Town within thirty (30) days from the date of the mailing of such true and exact copy of the warrant, the Town Manager shall then be authorized and required to collect the same in any of the manners hereinbefore provided. 70 Del. Laws, c. 346; 72 Del. Laws, c. 110;

### **Jetties, Bulkheads, Embankments And Boardwalks**

#### **Section 29.**

The Commissioners of Henlopen Acres shall have the power and authority to locate, lay-out, construct, widen, extend, improve, repair, vacate or abandon jetties, bulkheads, embankments, boardwalks and piers for the preservation of any beach or strand within the limits of the Town to the ends that the same may be preserved and property may be protected. In the locating, laying-out, constructing, widening, extending, improving, repairing, vacating or abandoning of any such jetties, bulkheads, embankments, boardwalks and piers, the Commissioners shall have full power and authority to use such materials and substances and such methods of construction and shall employ such contractors, engineers, inspectors, and others as the Commissioners shall deem expedient and advisable. For the purpose of this Section the Commissioners shall have full power and authority to expend such part or parts of the money of the Town, in the general fund of the Town which is not otherwise appropriated.

### **Water System**

#### **Section 30.**

- (a) The Commissioners of Henlopen Acres shall have full power and authority to provide an ample supply of pure water for the Town and the inhabitants thereof. To this end, it shall have full power and authority to purchase, acquire by grant or gift, lease, erect, construct, maintain, operate, extend, enlarge, re-new, replace and control wells, reservoirs, pumping machines and stations, tanks, standpipes, water mains, fire hydrants and all other instruments for the collection, storage, purification, conveyance and distribution of water, over, on, under or through the lands controlled by the Town Council or belonging to private individual or individuals.
- (b) The Commissioners shall have power to enact ordinances, rules and regulations in regard to the use for public or private purposes of water furnished by the Town; the amounts to be paid by the users thereof; the means or methods whereby the same shall be collected; the fixing of fines, or penalties, or both, for any willful or negligent injury or damage to or interference with the water system or equipment of the Town.

- (c) The Town Commissioners shall have the power to make contracts for the purchase of water with any responsible person, firm or corporation and to distribute the same to users within or without the said Town with the same full powers as if such water had been initially reduced to usefulness by the Town itself.

### **SEWER SYSTEM**

#### **Section 30A.**

The Commissioners of Henlopen Acres are hereby vested with 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 of Henlopen Acres 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 Commissioners of Henlopen Acres shall have the power to enact Ordinances, Rules and Regulations regarding the sewerage system and sewage treatment plant, if any, 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 wilful or negligent injury or damage to or interference with the said sewerage system or sewage treatment plant of the Town. The Commissioners may, at their option, furnish sewer facilities to places and properties outside the limits of the Town of Henlopen Acres upon such special terms, charges and conditions as the Commissioners may deem wise. In a proper case, the Commissioners of Henlopen Acres 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 charge therefor, and in respect thereto may use any method provided in this Charter for the collection thereof. The Commissioners may, at their option, contract for and purchase sewer disposal service from Sussex County or any other municipality or political subdivision of the State of Delaware, and to resell the same to users within or without the Town of Henlopen Acres with the same powers as though such service had been initially provided by the facilities therefor of the Town of Henlopen Acres itself. The Commissioners in Henlopen Acres may, by condemnation proceedings, take private land or property or the right to use private land or property under, over or on the surface thereof for the proper operation or extension of the sewer system or sewage treatment plant in the Town of Henlopen Acres. The proceedings for condemnation under this Section shall be the same as prescribed by the general laws of eminent domain in Title 10, Delaware Code of 1953, as amended. Such condemnation proceeding may also be used by the Commissioners of Henlopen Acres in order to acquire private property and comply with any contract for the purchase of sewer disposal service. 59 Del. Laws, c. 18

### **Drainage**

#### **Section 31.**

The Commissioners of Henlopen Acres shall have the full jurisdiction and control, within the limits of the Town, of the drainage of all water thereof, together with the rights 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 may pass ordinances for the opening of gutters, surface water and underground drains and sewers within the limits of the Town. The Commissioners of Henlopen Acres 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.

### **Borrowing Money And Issuance Of Bonds**

#### **Section 32.**

- (a) In addition to other borrowing powers granted to the Town under this Charter or by State law, the Commissioners shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or other evidence of indebtedness to secure the repayment thereof, on the full faith and credit of the Town, or such other security or securities as the Commissioners shall elect, for the payment of principal thereof and interest due thereon.
- (b) All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the Commissioners of Henlopen Acres in pursuance hereof shall be exempt from all State, County or municipal taxes.
- (c) This power or authority to borrow money may be exercised by the Commissioners of Henlopen Acres to provide funds for, or to provide for the payment of, any of the following projects or purposes:
1. Refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein;

2. Meeting or defraying current annual operating expenses of the Town in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees, or other charges due the Town and available, when paid, for meeting or defraying current annual operating expenses of the Town;
  3. Erecting, extending, enlarging, maintaining, and repairing any plant, building, machinery, or equipment for the supplying or disposal of water, sewerage or drainage waters, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefor;
  4. Constructing, paving, laying-out, widening, extending, repairing and maintaining streets, lanes, alleys, and ways and the paving, constructing, laying-out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing of any lands, easements or rights-of-way which may be required therefor;
  5. Constructing, laying-out, widening, extending, repairing and maintaining boardwalks, piers, jetties, bulkheads, sidewalks, cross-walks, or embankments, or any of them, and the condemning or purchasing of any lands, easements or rights-of-way which may be required therefor;
  6. Defraying the cost to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter.
  7. Paying all expenses deemed necessary by the Commissioners for the issuance of said bonds or other evidence of indebtedness, including bond discount and legal expenses of bond counsel.
- (d) In those cases where the power or authority hereby vested in the Commissioners of Henlopen Acres is sought to be exercised for the purpose of refunding any or all outstanding bonds or other indebtedness of the Town at a rate of interest equal to or less than the indebtedness thereby sought to be refunded and in all instances provided for in sub-paragraph 2 above, it shall not be necessary for the Commissioners of Henlopen Acres to call a special election of the taxables of the Town to secure their approval of such borrowing.
- (e) In all other instances the power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any other purpose or purposes above specified shall be only exercised in the following manner.
- (f) The Commissioners shall adopt a resolution proposing unto the electors of the Town that money be borrowed by the Town for any of the above named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:
1. The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;
  2. The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;
  3. The manner in which it is proposed to be secured;
  4. The manner in which it is proposed that it shall be paid, or funded, or both;
  5. A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and
  6. A statement of the time and place for a public hearing upon the resolution, where the Commissioners of Henlopen Acres shall vote upon the final authorization for the loan.
- (g) It shall then be the duty of the Commissioners to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper having general circulation in the Town of Henlopen Acres at least one week before the time fixed for said hearing and by posting copies thereof in two (2) conspicuous public places throughout the said Town at least one week before the time fixed for said hearing.
- (h) At the time and place specified in the notice, the Commissioners shall sit in public session. At this public session, or an adjourned session thereof, the Commissioners shall vote upon a resolution to give its final authorization for the loan. In order for this Resolution to be effective to authorize the loan, it must be passed by the affirmative vote of two-thirds (2/3rds) of the elected members of the Town Commission. A copy of the Resolution shall be entered in the Minutes of the next meeting of the Commissioners and another copy shall be filed with the papers of the Commissioners of Henlopen Acres.
- (i) The form of bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturities, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the Commissioners of Henlopen Acres after the public hearing. Bonds or certificates of indebtedness may be sold at either public or private sale as determined by the Commissioners of Henlopen Acres. 69 Del. Laws, c. 12

- (j) All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be advertised and sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the Commissioners of Henlopen Acres may deem most advisable.
- (k) The Commission shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal of such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it shall also provide a sinking fund therefor.
- (l) Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the Town of Henlopen Acres shall be deemed to be pledged for the due payment of any such bond or bonds or certificates or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefor,
- (m) In no event shall the indebtedness of the Town of Henlopen Acres, for any and all purposes, at any one time, exceed, in the aggregate, fifteen percent (15%) of the assessed value of all real estate including improvements located thereon situate within the confines of the Town of Henlopen Acres and subject to assessment for the purpose of levying the annual tax hereinbefore provided. 59 Del. Laws, c. 18
- (n) In the event any public property, or estate of the Town of Henlopen Acres and/or the Commissioners of Henlopen Acres shall be destroyed or damaged to any extent whatever by fire, wind, flood, or other catastrophe or calamity arising from forces outside the human control, the Commissioners of Henlopen Acres shall be, and they are hereby, authorized to obtain a loan or loans to raise such funds as may be necessary to repair and/or replace any and all such public property or estate so destroyed or damaged. A public hearing shall be held and a resolution passed by two-thirds (2/3rds) of the elected members of the Town Commission before the Commissioners may proceed to obtain the funds by loan or loans. 70 Del. Laws, c. 345; 72 Del. Laws, c. 110;

### **Exemption Of Property From Taxation**

#### **Section 33.**

The Commissioners of Henlopen Acres shall, within its sound discretion, have the authority, by ordinance, or by resolution, to exempt, relieve, release, and exempt any person, firm, association or corporation from the payment of any or all taxes, assessments, license fees, or other charges due the Town for a period which shall be set by the vote of two-thirds (2/3rds) of the Town Commissioners. 72 Del. Laws, c. 110

### **Contracts**

#### **Section 34.**

- (a) All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be awarded to the bidder submitting the lowest and best bid; provided, however, that competitive bidding shall not be required in any of the following circumstances:
  1. The aggregate amount involved is not more than Thirty Thousand Dollars (\$30,000); 66 Del. Laws, c. 259; 67 Del. Laws, c. 213;
  2. The purchase or contract is for personal or professional services;
  3. The purchase or contract is for any service rendered by a university, college or other educational institution;
  4. The purchase or contract is for any service to be rendered by the State of Delaware or any political subdivision thereof;
  5. The purchase or contract is for property or services for which it is impracticable to obtain competition;
  6. The public exigency as determined by the Town Commissioners will not permit the delay incident to advertising;
  7. The materials to be purchased are to be used to complete project under the supervision of the Town Manager;
  8. The purchase or contract is for property or services for which the Commissioners determine the prices received after competitive bidding are unreasonable as to all or part of the requirement or were not independently reached in open competition;

9. A public emergency as determined by the Commissioners exists. 70 Del. Laws, c. 346

### **Limitation Of Actions**

#### **Section 35.**

No action, suit or proceeding shall be brought or maintained against the Town of Henlopen Acres for damages, either compensatory or punitive, on account of any physical injury or injuries, death or injury to property by reason of the negligence of the Town Commissioners of Henlopen Acres or any of its departments, officers, agents, or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted within ninety days from the happening of such injury or the suffering of such damage, shall notify the Commissioners of Henlopen Acres in writing of the time, place, cause, character and extent of the injuries sustained so enrolled or damages suffered. Any suit brought against the Commissioners of Henlopen Acres shall be against them only in their capacity as representatives of the Town Government and not as individuals.

### **Compendium**

#### **Section 36.**

It shall be the duty of the Commissioners, at reasonable times, or time, to compile the ordinances, codes, orders, and rules of the Commissioners of Henlopen Acres. They shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, codes, rules and regulations, or upon the enactment of amendments to the same, the Commissioners shall enroll the same in the minutes of the Town Commissioners and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. They shall furnish to the Mayor of the Town of Henlopen Acres copies thereof as they are enacted; and therefrom may cause supplements to be compiled and printed to any compendium thereof heretofore printed as above provided.

### **Investigations**

#### **Section 37.**

The Commissioners of Henlopen Acres shall have the power to inquire into and investigate the conduct of any office, officer or employee of the Town and to make investigations of all municipal affairs, and, for any such purpose or purposes, shall have the power to subpoena witnesses, administer oaths and compel the production of books, papers or other evidence.

#### **Section 37A. Taxation of Real Estate Transfers.**

- (a) The Commissioners of The Town of Henlopen Acres, in addition to all other powers conferred upon them by this Act, shall have the power and authority by ordinance or ordinances to levy, assess and collect or provide for the levying, assessment and collection of such taxes as shall be determined by the Commissioners to be paid by the transferor or transferee upon the transfer of real property or any interest in real property situate within the corporate limits of The Town of Henlopen Acres, regardless of where the actual settlements on such transfers occur; provided, however, that no tax shall be levied upon an organization exempted from ad valorem real estate taxes.
- (b) No ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property authorized under this Section shall become effective unless it receives an affirmative vote of two-thirds (2/3) of all the elected members of the Commissioners of The Town of Henlopen Acres. If the taxing power authority granted under this Section shall be exercised by way of a stamp affixed to a document presented for recording, the Recorder of Deeds, in and for Sussex County, shall not receive for record any document subject to such tax unless stamps are affixed thereto.
- (c) The Commissioners of The Town of Henlopen Acres may adopt an ordinance or ordinances to provide for the effective administration, regulation and collection of any tax adopted pursuant to the provisions of this Section.
- (d) No tax levied under this Section shall exceed one percent (1%) of the sale price (including the value of any assumed mortgage or mortgages) or of the fair market value of the real property so transferred; provided, however, that no tax shall be imposed upon an organization which is exempted from ad valorem taxes. The

provisions of 30 Del. Laws, c. 54, §5401 and §5403, shall be applicable to any realty transfer tax imposed pursuant to this Act.

- (e) The Commissioners may provide by Ordinance for the collection of such tax by the Recorder of Deeds, in and for Sussex County, or such other agent as may be appointed by the Commissioners and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Section. 67 Del. Laws, c. 213

### **Survival Of Powers And Validating Section**

#### **Section 38.**

- (a) All powers conferred upon or vested in the Town of Henlopen Acres or the Commissioners of Henlopen Acres by any Act or Law of the State of Delaware not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the Town of Henlopen Acres and/or the Commissioners of Henlopen Acres precisely as if each of said powers was expressly repeated in this Charter.
- (b) Excepting as may be herein provided expressly to the contrary, every and all Sections or parts of Sections of this Act shall become effective immediately upon its approval.
- (c) The authority vested in the Commissioners of Henlopen Acres and the taxables of the Town of Henlopen Acres by Section 1 of this Act shall apply with equal force and effect to all loans which may be required to raise funds necessary to replace and/or repair all such public property or estate as might have been so destroyed or damaged at a time or times preceding the enactment and approval of this Act as well as at a time or times after the date of the enactment and approval hereof.
- (d) All acts or parts of acts inconsistent with or in conflict with the provisions of this Act are hereby repealed to the extent of such inconsistency only.
- (e) If any part of this Act shall be held invalid or unconstitutional, such holding shall not be deemed to invalidate the remaining provisions hereof.
- (f) This Act shall be taken as and deemed to be a public act of the State of Delaware.

### **Effective Date Of Act**

#### **Section 39.**

This Act shall become effective on being signed into law by the Governor of the State of Delaware and acceptance of same by referendum of a majority of the qualified voters of Henlopen Acres to be held within sixty (60) days after the Act is signed by the Governor. For purposes of the referendum referred to within this section, qualified voters shall be as defined in paragraph (d) of Section 5 of this Act.

Approved June 4, 1970.

57 Del. Laws, c. 504; 59 Del. Laws, c. 18; 59 Del. Laws, c. 89; 66 Del. Laws, c. 15; 66 Del. Laws, c. 259; 67 Del. Laws, c. 213; 68 Del. Laws, c. 427; 69 Del. Laws, c. 12; 70 Del. Laws, c. 345; 70 Del. Laws, c. 346; 70 Del. Laws, c. 347; 72 Del. Laws, c. 110; 73 Del. Laws, c. 21; 73 Del. Laws, c. 159; 73 Del. Laws, c. 361; 74 Del. Laws, c. 16; 77 Del. Laws, c. 42; 79 Del. Laws, c. 247; 79 Del. Laws, c. 248;