

Little Creek

Section 1.

That the citizens of the Town of Little Creek shall be and they are hereby created a body politic and corporate in law and in equity and shall be able and capable to sue and be sued, plead and be impleaded in courts of law and equity in this State and elsewhere, by the corporate name of the Town of Little Creek, and shall have a corporate seal, with power to alter the same as they may deem expedient and with power to purchase, hold, receive and enjoy any lands and tenements or personal property, and to alien, grant, sell and dispose of the same in such manner as may be necessary.

Section 2.

The boundaries of the said Town of Little Creek shall be as follows:

Beginning at a point in the center of the present draw-bridge, known as Pivot Bridge, which crosses Little River, formerly Little Creek, and being the South terminus of Main Street in said Town of Little Creek; thence running with the center of the stream of Little River, in a southwesterly direction with its several courses and meanderings about Four Hundred (400) feet more or less to a point in said stream center opposite a post and wire fence on land of the Wilson farms; thence turning and running with said post and wire fence across the marsh land and farm land of the Wilson farms, North Nine (9) Degrees West Fifteen Hundred and Twenty-five (1525) feet more or less, passing along the West side of Clark Street, to a point in the center of the lane leading to the south Wilson farm, said point being opposite the center of Bell Street, thence continuing same bearing and crossing said lane and the West end of Bell Street across the Wilson farm lands Nine Hundred and Fifty-four (954) feet more or less, to the center of another lane leading to the north Wilson farm, called Collins Lane; thence continuing same bearing and crossing the Wilson land and land of Verona E. Pleasanton Twenty-two Hundred and Sixty-four (2264) feet more or less to a point in the center of the old concrete traffic pavement of the State Highway known as the North Road from Dover to Little Creek; thence running with said road center, through the center of the parkway dividing the drive into Little Creek and the drive leading to Leipsic. North Eighty-one (81) Degrees East Three Hundred and Seventy (370) feet to the center of the concrete pavement on road leading from Little Creek to Leipsic, and being opposite the center of property now of "Green"; thence continuing same bearing and crossing the property of said Green One Hundred and Ninety-five (195) feet to a corner in the Green land; thence turning and crossing the land of Green and Cullen and running South Nine (9) Degrees East Five Hundred and Twenty (520) feet, more or less, to the dividing line of Bateman Cullen and land now of Herbert Winslow, thence continuing same bearing and running along the East line of a fifteen foot alley or easement of a subdivision of the Winslow lands, called Little Creek Subdivision Fourteen Hundred and Forty-two (1442) feet to a point in the center of the road leading to Port Mahon Landing, thence continuing same bearing across the Winslow lands Four Hundred and Sixty-five (465) feet to a point in the center of a ditch, called Town Line Ditch and opposite the southeast corner of the public school lot; thence running with the center of said ditch and the eastern boundaries of various lots on Main Street, in a South-easterly direction Thirteen Hundred and Fifty (1350) feet; more or less, to a point in said ditch, and being East of and opposite the Southeast corner of a lot of land now or late of Edward Little; thence by a line across the Winslow land passing to the Northwest corner of a blacksmith shop, and being Three Hundred (300) feet from the center of the concrete pavement on South Main Street Seven Hundred and Fifty (750) feet to a point in the center of Little River; thence therewith in a Westerly direction about Three Hundred (300) feet more or less back to the beginning, and containing within said metes and bounds the old corporate lines, including the proposed new lines of said Town of Little Creek, Kent County, Delaware.

The street running from Little Creek bridge through the said Town shall be called "Main Street" and shall not be less than thirty (30) feet wide; the street running parallel with Main Street and to the West thereof shall be called "Clark Street" and shall not be less than thirty feet wide; the street running from Main Street, west, along lands known as the Lowe property shall be known as "Lowe Street" and shall not be less than thirty (30) feet wide; the street running from Main Street, west, to Clark Street and the Wilson land, shall be known as "Bell Street" and shall not be less than thirty (30) feet wide; the street running from Main Street, west to the Wilson farm, between properties now owned by Susan Harrington and Estelle Woodley on the North and lands of George Lynch on the South, shall be known as "Collins Lane". (61 Del. Laws, c. 518, 7/13/78)

Section 3.

The present duly elected commissioners shall be the commissioners for the said Town of Little Creek until the first Saturday in March in the year of our Lord one thousand nine hundred and seventy-eight, and upon the said first Saturday in March, and in every even numbered year thereafter, there shall be elected three (3) commissioners for the term of two (2) years each. Upon the first Saturday of March, in the year of our Lord, one thousand nine hundred and seventy-eight there shall be elected two (2) commissioners and assessor for the term of one (1) year each. Upon the first Saturday in March in every odd numbered year thereafter there shall be elected two (2) commissioners and an assessor for the term of two (2) years each. Commissioners shall serve until their successors are duly elected and qualified.

Commissioners shall serve without compensation. Each Commissioner shall be above the age of 21 years, the owner of real estate within said Town of Little Creek, a nondelinquent payer of taxes to the said Town of Little Creek, and a resident of said Town of Little Creek for at least two (2) years. Ownership of stock in a corporation owning real estate in the said Town of Little Creek shall not constitute ownership of real estate as required by this Section, Disposal of real estate shall not disqualify a Commissioner or assessor from serving the remainder of the term to which he has been duly elected. If, during his term, any commissioner or assessor shall cease to be a resident of said Town of Little Creek, he shall ipso facto vacate his office.

In case of vacancy created in any office, either by death, resignation, loss of residence, or otherwise, such vacancy shall be filled by holding a special town election within thirty (30) days.

On the first Saturday in March of each year from 2 o'clock to 6 o'clock in the afternoon every person, male or female, above the age of eighteen (18) years who shall have been a bona fide resident of the Town of Little Creek for at least one (1) year immediately preceding any such election and who is a nondelinquent payer of taxes to the said Town of Little Creek or has become eighteen (18) years of age since the last assessment of taxes shall have one (1) vote. All votes shall be offered in person and in voting the voters shall cross out the names of all the candidates for whom he does not desire to cast his vote.

Candidates for office shall file with the President of the Board of Commissioners not sooner than 9:00 a.m. on the third Monday preceding the election nor later than 4:30 p.m. on the Monday preceding the election. The President of the Board of Commissioners shall publish a list of candidates for office in at least four (4) public places in the Town of Little Creek on the day prior to the election. (61 Del. Laws, c. 518, 7/13/78)

Section 4.

That in each and every year there shall be twelve (12) stated meetings of the Commissioners of the Town of Little Creek, as follows: On the first Monday of each of the months of January through December, at which meetings the said Commissioners may pass all ordinances that may be necessary for the good government of the Town of Little Creek for the improvement of the streets, pavings of sidewalks, and the proper lighting of the streets, and the planning and protection of ornamental trees, and for all other matters relating to the Town of Little Creek that may be provided for by any of the provisions of this Act. The said Commissioners shall pass ordinances, imposing fines, penalties, and forfeitures, and provide for their collection. (61 Del. Laws, c. 518, 7/13/78)

Section 5.

At the first stated meeting of the Commissioners in each and every year one of the said Commissioners shall be chosen President of the Board of Commissioners, and the President shall preside at all the meetings of the Commissioners, and shall have the general supervision of all the streets, lanes and alleys of said town and of all the persons that may be employed by the Commissioners, and shall receive complaints of nuisances and any other complaints of the citizens of the Town of Little Creek of the violation, of the ordinances of said town, and shall present the same to the Commissioners at their next meeting for their action; and in all cases where immediate action is required the President shall cause the same to be proceeded on by the Alderman. He shall sign all warrants for the payment of money, and shall perform such other duties as may be imposed by any of the ordinances of the said town.

Section 6.

The Town Commissioners shall have power to widen, straighten and extend the streets now existing, and also to lay out and open new ones, and for that purpose to purchase or condemn the appropriate land. Whenever the Town Commissioners shall have determined to locate and lay out or widen any street, lane or alley, and shall have fixed the compensation therefor, it shall be their duty immediately after the survey of said street, lane or alley, to notify, in writing, the owner or owners of the real estate through or over which such street, lane or alley may run of their determination to open or widen the same, and to furnish a general description of the location thereof, and also the amount of the damages or compensation allowed to each, and if such owner be not resident within said Town to notify the holder or tenant of said real estate, but if there be no holder or tenant resident within said Town the said notice shall be affixed to the most conspicuous part of the premises. If any owner be dissatisfied with the amount of the compensation or damages allowed by the Town Commissioners, as aforesaid, he or she may within ten days after such notice, as aforesaid, appeal from the said assessment of compensation or damages by serving a written notice to that effect on the President of said Commissioners, or the person performing the duties of the President of the Town Commissioners for the time being. In order to prosecute said appeal such owner or owners shall, within fifteen days after the expiration of the ten days allowed for appeals, and upon ten days' notice to the said President of the Town Commissioners, or the person performing the duties of the President of the Commissioners for the time being, make written application to the Associate Judge of the Superior Court of this State, resident in Kent County, for the appointment of a commission to hear and determine the matter of damages or compensation, and thereupon the said Associate Judge shall issue a commission under his hand directed to five freeholders of the said County, three of whom shall be residents of said Town of Little Creek and two of whom shall be non-residents of said Town, commanding them to assess the damages which the owner of the real estate through or over whose lands said street, lane or alley shall pass, who shall have notified the said Town Commissioners of their intention to appeal, may incur by reason thereof, and to make return of their proceedings to the said Associate Judge at a time therein appointed. The freeholders named in such commission being first sworn or affirmed, as in said commission shall be directed, shall view the premises, and they or a majority of them shall assess the damages as aforesaid, and shall make return in writing of their proceedings in the premises to the said Associate Judge, who shall deliver said return to the said Town Commissioners, which shall be final and conclusive. The said Associate Judge shall have power to fill any vacancy in the commission. The amount of damages being so ascertained, the Town Commissioners may pay or tender the same to the person or persons entitled thereto within one month after the same shall be finally ascertained, or if the person or persons so entitled reside out of or are absent from the Town during said period of one month, or are minors, then the same may be deposited to his or her credit at the Farmers Bank of the State of Delaware at Dover within said time, and thereupon the said property or land may be taken or occupied for the uses aforesaid. In the ascertainment and assessment of damages by the freeholders appointed by the Associate Judge, as aforesaid, if the damages shall be increased, the costs of appeal shall be paid by the Treasurer of the Town out of any money in his hands belonging to the Town, but if said damages shall not be increased the costs of appeal shall be paid by the party appealing. The fees of the freeholders shall be two dollars a day to each, which shall be taxed as part of the costs. After the damages shall be fixed and ascertained, the Town Commissioners shall have the option to pay the damages assessed within the time aforesaid and proceed with the said improvements, or, upon the payment of the costs only, may abandon the proposed improvements.

Section 7.

The Town shall have all powers possible for the Town to have under the Constitution and Laws of Delaware as fully and completely as though they were specifically enumerated in this Act. In furtherance thereof, the Town Commissioners are hereby vested with the authority to enact ordinances and adopt resolutions relating to any subject within the powers or functions of the Town, or relating to the government of the Town, its peace and order, its sanitation, beauty, the health, safety, convenience and comfort of its population, and the protection and preservation of property and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of the Town Charter as to ordinances or resolutions on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one or more states or civil divisions or agencies thereof, including the government of Kent County, or the United States or any agency thereof.

It shall be the duty of the Town Commissioners, at a reasonable time or times, to compile the ordinances, codes, orders and rules of the Town Commissioners. The Town Commissioners 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 Clerk of the Town Commissioners shall enroll the same in a journal 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.

Section 8.

- (a) The Justice of the Peace sitting (whether regularly, specially or otherwise) in the Justice of the Peace Court located nearest to the Town shall have jurisdiction and cognizance of all offenses against the provisions of this Act or the authorized ordinances of the Town committed within the limits of the Town as far as to arrest and hold to bail or fine and imprison offenders; provided that he shall impose no fine or penalty in excess of that fixed by the ordinance and shall not commit to prison for a longer term than 30 days. The Kent County Jail may be used for imprisonment under the provisions of this Act provided that the Town Commissioners shall pay for the board of persons committed for breaches or ordinances which are not breaches of the general law.
- (b) No ordinance of the Town shall provide for a fine in excess of \$500.00 or imprisonment of more than 30 days.
- (c) Any person convicted before such Justice of the Peace for violation of any Town ordinance may appeal from such conviction to the Superior Court in and for Kent County upon giving bond to the State with or without surety, such as the Justice of the Peace shall determine, binding the person taking the appeal to appear before the Court. Notice of such an appeal shall be given to such Justice of the Peace within five (5) days from the time of conviction, counting the day of conviction as one, and the bond with surety, if any, shall be filed within five (5) days. No bond upon appeal from a conviction for violation of a Town ordinance shall exceed the sum of five hundred dollars (\$500.00) Such appeal shall be prosecuted and the proceedings shall be had as in an appeal from a conviction before a Justice of the Peace in the case of a violation of the laws relating to the operation of motor vehicles.

Section 9.

The Town Commissioners may appoint a police force consisting of such person or persons as the Town Commissioners may deem wise and advisable. The Town Commissioners shall from time to time adopt rules and regulations as may be necessary for the organization, government and control of the police force. The members of the force shall be subject to the direction of the Town Commissioners and may be removed by the Town Commissioners at any time. 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; and they shall have such other duties as the Town Commissioners shall from time to time prescribe.

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

Every person sentenced to imprisonment by the Justice of the Peace, as provided in Section 8 above, shall be delivered by a member of the police force to the proper place of incarceration, to be there imprisoned for the term of the sentence.

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

Section 10.

It shall be the duty of the Commissioners on the first Monday in March next, or as soon as conveniently may be thereafter, and annually thereafter, to elect by ballot a Treasurer and Clerk, who shall hold their offices until the first Monday in March next after their election, and until their successors shall be duly elected and qualified. The Treasurer and Clerk may or may not be the same person. The said Commissioners shall also have authority to elect by ballot a collector of taxes in any year they may think it proper to do so. The Treasurer, before entering upon the duties of his office, shall be sworn or affirmed to perform the duties of his office faithfully, honestly and diligently, and shall also, before entering upon the duties of his office, give bond to the Town of Little Creek, with sufficient sureties, to be approved by the Commissioners of said Town in the penal sum of one hundred and fifty (\$150) dollars, conditioned for the faithful discharge of the duties of his office, and for the payment to his successor in office of all sums of money belonging to said town which may remain in his hands upon the settlement of his accounts, to which bond and condition there shall be annexed a warrant of attorney for the confession of judgment for the penalty. The said Treasurer shall pay all orders drawn on him by order of the Commissioners and signed by the President thereof out of any moneys in his hands belonging to said Town. He shall settle his accounts with the said Commissioners annually by the first Saturday in March and at such other times as the said Commissioners may require. It shall be the duty of the Clerk of said Town to keep a true and faithful record of all the proceedings of said Town at all meetings held by them, and to do and perform all other matters and things that may be prescribed by any section of this Act or any ordinance enacted by the Commissioners.

Section 11.

It shall be the duty of the Commissioners of said Town, at their first meeting in March next, or as soon thereafter as may be convenient, to choose by ballot an Assessor to serve until the first Saturday in March, A.D. 1900, or until his successor shall be chosen. It shall be the duty of the Assessor within two (2) weeks after his election to make a just and impartial valuation and assessment of all the real estate and assessable personal property within said Town, and also an assessment of all the male citizens residing in said Town above the age of eighteen (18) years, as well as those owning real estate as those not owning real estate within the limits, at an amount which shall be fixed by the Commissioners at their first stated meeting, but the sum so to be fixed shall be the same for every class and description of said citizens and shall not exceed the sum of Twenty Thousand (\$20,000) Dollars and then said Assessor shall forthwith after making said assessment deliver to the Commissioners a duplicate containing the names of all the persons assessed, the amount of their assessment, distinguishing the assessment of the real and personal property of each. Upon the return of the assessment as aforesaid the Commissioners shall give five (5) days public notice that they will sit together at a certain place and on a certain day, to be fixed by the Commissioners, from one to four o'clock in the afternoon, to hear appeals from the said assessment, and at such time the Commissioners shall have power to add to or decrease any assessment. When the appeal day is past, the Commissioners shall, without delay, cause the assessment list to be transcribed and the transcript shall be delivered to the collector, who shall thereupon collect from each taxable the amount of his tax, and pay over the whole amount collected, deducting commissions and delinquencies, to the Treasurer of said Town on or before the first day of October next after receiving his duplicate. The Town Commissioners shall fix the amount of the commissions to be paid to the collector for collecting the taxes, and the said collector shall have the same power and authority for the collection of taxes as are now conferred or may be hereafter conferred by law on collectors of county taxes. (75 Del. Laws, c. 197)

Section 12.

That the Commissioners herein named and their successors in office shall, at their first stated meeting in each year, or as soon thereafter as may be, determine the amount of tax to be raised in said Town for that year, not exceeding Twenty Thousand (\$20,000) Dollars, including tax on real estate, personal property and poll tax, and excluding delinquencies and commissions for collection. The Commissioners or a majority of them, shall have power and authority to use any and all monies thus determined and collected for the general improvement, ornament and benefit of said Town as they may advise and for any other purpose provided for by any of the Sections of this Act, and all the money paid out by the Treasurer shall

be on the order of the Commissioners and signed by the President and Clerk thereof. (75 Del. Laws, c. 197)

Section 13.

That the Town Commissioners shall have power to enact ordinances for the paving or improving of the sidewalks, which ordinances shall be applicable to those persons only who own property fronting upon the sidewalks, who shall bear all the expense of making the pavement or other improvements ordered in front of their respective properties. If such ordinance be not complied with within one month after notice be given, the Commissioners may procure the materials and cause the necessary work to be done and collect the expense so incurred from the owner or owners of the lands adjoining such sidewalks. The Commissioners shall have power to sell any real estate or personal property for the purpose of paying the expenses as aforesaid, but no sale shall be made unless thirty (30) days notice shall have been given by advertisement at three (3) of the most public places in the said Town, and if the proper notice shall have been given and the sale shall have been made as aforesaid, the purchaser at said sale shall take a valid and complete title to the property thus sold, subject to prior liens and encumbrances. The money realized from said sale shall be applied to paying the expenses of said sale, and of the work done and materials furnished, and if there should be any remaining the Commissioners shall cause the Treasurer to pay the same to the owner or owners of the property thus sold.

Section 14.

That the President and Commissioners shall have the superintendent and oversight of all the roads and streets now opened or that shall hereafter be opened within the limits of said Town, and no overseer of any roads or streets that may be appointed by the Levy Court of Kent County shall have any jurisdiction or oversight over any of the streets or roads in the limits of said Town, and the Levy Court shall annually appropriate for the repair of said roads or streets a sum of money not less than seventy-five (\$75) dollars, and shall make an order for the payment thereof to the Treasurer of the Town of Little Creek.

Section 15.

The said Town Commissioners of Little Creek shall have power to enact ordinances to prevent nuisances, to preserve the health of the Town and to prevent the introduction of infections or contagious diseases, and on complaint of any citizen to cause examination of any chimney, stove pipe, fixture or any other matter dangerous to the citizens of the said Town, and if adjudged dangerous to require it to be repaired or removed. The Commissioners shall have power to define and remove nuisances, and to prohibit the firing of guns or pistols, the making of bonfires, the setting off of fireworks and to prevent or suppress any dangerous sport or practice, and generally they shall have all the powers necessary to preserve and maintain peace and good order in said Town.

Section 16.

The Commissioners shall have power to levy a special tax to pay for a right of way, charges and costs incidental to the widening, straightening, extending and opening of new streets, lanes or alleys laid out previous to the passage of this Act, which tax shall be collected as other Town taxes are collected.

(21 Del. Laws, c. 283,3/23/99, as amended by 28 Del. Laws, c. 144; 32 Del. Laws, c. 130; 35 Del. Laws, c. 112; 36 Del. Laws, c. 172; 47 Del. Laws, c. 118; 56 Del. Laws, c. 203; 57 Del. Laws, c. 745; 61 Del. Laws, c. 518; 75 Del. Laws, c. 197)