



SPONSOR: Rep. Spiegelman & Sen. Lawson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 134
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND THE CHARTER OF THE TOWN OF HARTLY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Section 1, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

1. Incorporation

The inhabitants of the Town of Hartly within the limits and boundaries hereinafter described in Section 2 of this Charter, as the same may from time to time hereafter be revised, shall be and constitute a body politic and corporate in law and equity, and shall be known and identified as the "Town of Hartly." The Town has power to govern itself by such ordinances, rules, resolutions, and regulations for municipal purposes as they, through their duly-elected officers and agents deem proper, not in conflict with the provisions of this Charter, nor with the Constitution and Laws of the State of Delaware, or of the United States; and as such shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts. The Town has perpetual succession and succeeds to own or possess all property, whether real, personal, or mixed, tangible or intangible, of whatever kind and nature, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed, or enjoyed by the Town of Hartly.

Section 2. Amend Section 2, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

2. Town Limits

The bounds and limits of the Town of Hartly are hereby established and declared to be as follows: Beginning at a Point where the centre of Main Street and the centre of Hayes' Lane intersect, and running in a Northerly direction two hundred feet to a stake on the lands of Frank Rehak, late of W.D. Hawkins; thence in a Westerly direction to a point two hundred feet East from the centre of the road running from Hartly to Kenton; thence in a Northerly direction, keeping at a distance of two hundred feet Easterly from the centre of said last mentioned road, to the centre of said ditch, through the centre of Farrow's Bridge to a stake in Perry's field, two hundred feet West of said bridge; thence in a Southerly direction, keeping at a distance of two hundred feet Westerly from the centre of said road running from Hartly to Kenton and the Templeville road, to the fence at the School House grounds; thence in an Easterly direction, and crossing said last mentioned road, a distance of

four hundred feet; thence in a Northerly direction to Schweitzer's land, formerly Scotten's land; thence in an Easterly direction, keeping at a distance of two hundred feet Southerly from the centre of Main Street, to the centre of Hayes' Lane; and thence thereby Northerly two hundred feet to the place of beginning. The bounds and limits of the Town of Hartly are automatically amended pursuant to any annexations approved by the Town without the necessity of amending the boundary description contained in this Charter.

Section 3. Amend Section 3, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

3. Annexation of Territory

(a) All of the property owners of the territory contiguous to the then existing corporate limits and territory of the Town of Hartly, by written petition with the signature of each such petitioner duly acknowledged, may request the Town Commissioners to annex that certain territory in which they own property. Upon such request, the President of the Town Commission shall appoint a committee of three persons to investigate the possibility of annexation. Such committee shall have at least one elected member of the Commission among its numbers. Territory which is otherwise contiguous except for its separation from the corporate limits and territory of the Town of Hartly by public roadway, street, thoroughfare, easement or right-of-way shall be deemed contiguous for purposes of annexation under this Charter. The petition presented to the Commissioners shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Within ninety days the committee shall submit a written report containing its findings and conclusions to the Commissioners. Such report shall include the advantages and disadvantages of the proposed annexation both to the Town of Hartly and to the territory proposed to be annexed and shall contain a recommendation whether or not to proceed with the proposed annexation. In the event that the Committee concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Commissioners may then pass a resolution annexing such territory to the Town of Hartly, which constitutes the final annexation approval without the necessity of following those procedures set forth herein for annexations requested by less than all of the property owners. Such resolution ~~shall~~ must be passed by the affirmative vote of three-fifths (3/5) of all the elected members of the Commission. In the event that the committee concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided as if the annexation were proposed by ~~five (5) or more property owners~~ but less than all the property owners of a territory contiguous to the then limits and territory of the Town of Hartly.

(b) ~~Five (5) or more~~ Less than all of the property owners of a territory contiguous to the then limits and territory of the Town of Hartly by written petition with the signature of each such petitioner duly acknowledged, may request the Commission to annex that certain territory in which they own property. The petition presented to the Town Commission shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the commissioners, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three persons be appointed by the President to

investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the Town of Hartly. Such committee shall have at least one elected member of the Commission among its numbers.

Section 4. Amend Section 3, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(+) (L) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books of the Board of Assessment of Kent County, no election shall be necessary and the Commissioners of the Town of Hartly may proceed to annex such territory by receiving a certified copy of a resolution requesting such annexation, if such property is owned by a corporation, or by a written petition with the signature of each such petitioner duly acknowledged, if such property is owned by an individual, requesting the Commissioners to annex that certain territory in which they own property. The certified copy of the resolution or the petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the resolution or the petition, the President of the Commission shall appoint a committee composed of not less than three persons to investigate the possibility of annexation. Such committee shall have at least one elected member of the Commission among its numbers. Within ninety days the committee shall submit a written report containing its findings and conclusions to the Commissioners. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the Town of Hartly and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation. In the event that the committee concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Commissioners may then pass a second resolution annexing such territory to the Town of Hartly. Such resolution shall be passed by the affirmative vote of three-fifths (3/5) of all the elected members of the Commission. In the event that the Committee concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the resolution shall be passed by four-fifths (4/5) of all the elected members of the Commission. If the resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the resolution failed to receive the required votes. If the resolution receives the required number of votes, the Commissioners of the Town of Hartly shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the resolution. The territory considered for annexation shall be considered to be a part of the Town of Hartly from the time of recordation. The failure of the Commissioners to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the resolution.

(m) No action contesting the annexation of any territory may be brought after the expiration of 60 days from the publication of a notice in a newspaper of general circulation in the Town and territory annexed, which notice must contain the following information:

(1) Notice that the Town has annexed such territory and a description thereof.

(2) Notice that any person or other legal entity desiring to challenge the annexation must bring an action within 60 days from the date of publication of such notice or be forever barred from doing so.

(3) Such notice must be in bold print or bordered in black in such manner as to call attention thereto.

(4) In addition to publication as herein provided, the Town Commission must cause a public notice, containing the information set out in subsections (1) and (2) above (using date of "posting" for date of "publication"), to be posted in at least two (2) public places in the Town, viewable to the public, one of which places must be in the territory annexed.

(5) In the event the publications and postings do not appear on the same date, the date of the first publication or posting shall control.

Section 5. Amend Section 4, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 4. Commissioners, Qualification of

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

~~(a) A bona fide resident of the Town of Hartly for at least one year next preceding the annual election;~~

~~(b) At least eighteen (18) years of age;~~

~~(c) Be non-delinquent in his town taxes to the extent subject to same; and~~

~~(d) Each of the qualifications for Town Commissioner shall be continuing qualifications to hold office and the failure of any Commissioner to have any of the qualifications required by this Section during his term of office shall create a vacancy in the office.~~

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

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

4.1. Structure of Government. The government of the Town of Hartly and the exercise of all powers conferred by this Charter are vested in and exercised by five (5) Commissioners, all of whom shall be elected at large by the qualified voters of the Town of Hartly.

4.2. Qualifications for Town Commissioners. Candidates for the office of town commissioner must be at least eighteen (18) years old, have not been convicted of a felony or of any crime involving fraud, bribery, or embezzlement, have been a bona fide domiciliary of the Town of Hartly for at least one year prior to the date of the election, and have been otherwise qualified to vote at the annual Town election as provided for herein. For purposes hereof, a "bona fide domiciliary" means that a person has their true, fixed, and permanent home and principal establishment in the Town of Hartly to which, whenever they are absent, they have the intention of returning and physically resides in the Town of Hartly on a continuing basis, provided that absence for less than ninety days at a time from one's place of domicile for some temporary purpose shall not terminate that domicile so long as the intention to return to that place remains fixed, certain, and constant during the period of such physical absence.

4.3. Term of Office. Each Commissioner shall serve a term of two years. Commissioners in office at the time this Charter is enacted by the General Assembly will hold their offices for the residue of the term for which they were previously elected. At each election to be held annually thereafter there will be elected, each for a term of two (2) years, two (2) Commissioners in even numbered years and three (3) Commissioners in odd numbered years.

4.4. Compensation. Commissioners will be reimbursed for all documented out-of-pocket expenses incurred by them in carrying out the responsibilities of their office. Commissioners may be compensated a fixed sum for each regular or special meeting of the Town Commission attended when authorized by a resolution adopted by at least four (4) Commissioners. The Treasurer, Town Secretary and Town Solicitor are to receive reasonable compensation for their services, as determined by the Commissioners. By unanimous vote of those members present at any meeting of the Commission at which a quorum is present, any member of the Commission may be reimbursed for those actual, reasonable, and necessary expenses incurred in the performance of the business of the Town. Any member requesting reimbursement must present documented proof of such expenditures.

Section 6. Amend Section 5, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

5. Election of Commissioners

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

5.1 Time, Place, and Notice of Annual Elections. The annual municipal elections are to be held the last Saturday in April. The polls must remain open for at least five (5) hours at such place as are determined by the Commissioners. The notice of elections must be conspicuously posted in at least one public place in Town at least twenty (20) days prior to the election date. The notice of elections must include the date, time, and place of the election, the candidates for office, and the qualifications to vote. All election notices must be posted in accordance with Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law.

5.2 Notice of Solicitation of Candidates; Filing Deadline and Procedure. A notice of solicitation of candidates must be posted in at least one public place in town, at least twenty (20) days prior to the filing deadline. The notice of solicitation of candidates must identify the term or terms up for election, the filing deadline date, the procedure for declaring candidacy, and the qualifications for holding office. In order to be listed on the ballot at any regular Town election, each candidate must file a written and signed notice of intention to seek office with the Town, on a form prescribed by the Town, before five o'clock in the afternoon on the last Friday in March. Such form must contain an affidavit that the candidate meets all the qualifications for office.

5.3 Filing Certificate of Intention and Statement of Organization. All candidates must file a certificate of intention or statement of organization if either is applicable and required under Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law.

5.4 Determinations Concerning Qualifications. If it is determined that a candidate may not meet the qualifications for office, the President must call a special meeting of the Town Commission to be held at least twenty-one (21) days prior to the date of the election, at which the Town Commission will decide the matter. The candidate whose qualifications are at issue must be notified, by registered mail or personal delivery, of the date, time and place of the meeting at which he or she may appear and testify. If the Town Commission determines that the candidate does not meet the qualifications for office, it will reject the candidate's notice of intention and the candidate's name will not appear on the ballot. In making the determination, only those members of the Town Commission who are not competing candidates are entitled to vote on the question.

5.5 Compliance with State Regulations. The Town must follow the rules governing the conduct of elections and voting procedures, and must otherwise act in accordance with the state laws governing municipal voting, as found in Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law. The Town must implement the election provisions found in this Charter in accordance with the same state laws governing municipal voting. The Town may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the conduct of elections.

5.6 Voter Qualifications; Voter Registration. Any person will be qualified to vote who, on the date of the election:

(a) is a United States citizen;

(b) has attained eighteen (18) years of age;

(c) has been a bona fide domiciliary (as defined in Section 4.2) in the Town for at least thirty (30) days immediately preceding the date of the election;

(d) has not been adjudged a mentally incompetent person by a court of competent jurisdiction; and

(e) has not been disenfranchised pursuant to sections 3 or 7 of Article V of the Constitution of the State of Delaware.

Any person who is enlisted or engaged in any government service of the United States or any military organization of this State of the United States, which service requires them to reside outside the Town limits, will be considered a bona fide domiciliary of the Town of Hartly during the period of service so long as it remains their actual intention to retain the Town of Hartly as their fixed and permanent home. The Town Commission may enact ordinances concerning the registration of qualified voters for municipal elections in the Town as it deems reasonably necessary to provide for the orderly and efficient conduct of municipal elections, provided that no such ordinances may alter the qualifications of voters as hereinabove set forth, nor may any such ordinances unduly impair the right to vote in a municipal election.

5.7 Absentee Ballots. The Commission may (but is not required to), by ordinance, provide for a qualified voter (duly registered if required by ordinance) who is unable to appear in person to vote at any municipal election by absentee ballot. Whenever absentee voting is permitted, all notices must contain information about how to obtain an absentee ballot. All absentee voting authorized by the Town must be conducted in accordance with Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law.

5.8 Uncontested Elections. If the number of qualified candidates who file to run for office is not greater than the number of offices up for election, it is not necessary to hold an election and those qualified candidates who filed to run for office are deemed elected for the full term of the office. A notice of election cancellation must be advertised in the same manner that the notice of solicitation of candidates was advertised.

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

Section 7. Amend Section 8, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

8. Elections Board

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

~~The Election Board shall pass upon the qualifications of voters and conduct the election, keeping a list of all persons who vote. At the close of such election the Board shall canvas the votes, and the candidates having the highest number of votes for each office shall be declared elected. Certificates shall be made out and~~

delivered to the person or persons so elected, and the results of the election shall be noted on the records of the Town. In the event of a tie, the Elections Board shall, by majority vote, determine who is to be elected.

8.1 A Board of Election consisting of three (3) individuals must supervise each election. The Board of Elections members must be qualified voters of the Town and must not be an elected official or candidate for Town office or an immediate family member of such (mother, father, son, daughter, brother, sister, including half-brothers and sisters, step-family members and in-laws). The Board of Elections shall be appointed by the Town Commission at least twenty (20) days before an election and shall serve for a term of one year, provided that the Board's term shall not expire until a successor Board has been appointed. Members of the Board of Elections may serve for more than one term.

8.2 Each board member's name and contact information must be publicly posted in accordance with Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law. The Town will notify the State Election Commissioner and Kent County Department of Elections of the members appointed to the Board of Elections.

8.3 The Board of Elections will oversee the absentee ballots and either appoints an odd number of absentee ballot judges or, at the discretion of the Town Commission, acts itself as the absentee ballot election judges. If, at the opening of the polls, there shall not be present all the members of the Board of Elections, the ranking Town officer available at the opening of the polls shall appoint a qualified voter or voters to temporarily fill such vacancies through the conclusion of the election. The Board of Elections may appoint election officers (including an inspector) when needed to administer elections. In the absence of the appointment of election officers, members of the Board of Elections must act as election officers, and the Board of Elections must designate one of the board members as the inspector.

8.4 Board Members are the sole and final judges of the conduct of the election and of the legality of the votes offered. The Board of Elections keeps a list of all voters voting at an election. The Board of Elections has power to subpoena persons and officers of the Town and books, records, and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered.

Section 8. Amend Section 9, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

9. Appointment of Town Officers; Officer Duties; Bondedness

9.1 Appointment of Town Officers. Within a reasonable time after the election, the Commissioners, by majority vote, ~~shall~~ must appoint a President, Vice President, Treasurer, Town Secretary, Land Use Administrator, Town Clerk, Town Solicitor, Public Works/Building Inspector, and such other officers, employees, and agents of the town which as they may deem necessary and proper for the appropriate management of the Town. The President, Vice President, and Treasurer ~~must~~ shall be appointed from among the Commissioners. Other members of the Commission may serve as appointive officers of the Town of Hartly. Each such officer shall serve for a term of one year, and until his successor has been duly appointed and

~~qualified; however, the Town Solicitor shall be appointed for an indefinite term and shall be removable at the pleasure of the members of the Commission either with or without due cause stated.~~

9.2. Duties of President. The President has the following duties:

9.2.1 Presides at all Commission meetings and sees that the laws, ordinances, rules, and regulations of the Town are faithfully executed;

9.2.2 Is counted as a member of the Commission and votes on resolutions, motions and ordinances;

9.2.3 Administers oaths and affirmations;

9.2.4 Appoints all committees, subject to confirmation by the Commission;

9.2.5 Is recognized as the head of the Town of Hartly; and

9.2.6 May act on behalf of the Town, without prior Commission approval, in the event of some sudden emergency requiring prompt action in order to protect the public health, safety, and welfare of the Town, its residents and property owners. If reasonably possible, the President should notify each Commissioner, in writing, by U.S. mail, personal delivery, or email of the action so taken within forty-eight (48) hours. Any action taken by the President under the powers vested in the President under this section are as good as the act of the entire Commission, provided that the Commission may at a regular or special meeting held within fifteen (15) days of the President's action, cancel the further implementation of any such action not yet completed and notify any persons or legal entities affected.

9.3 Duties of Vice President. The Vice President performs those duties as assigned by the President or by ordinance or resolution adopted by the Commission. If the President is incapacitated from acting by reason of absence, death, or disability, or for any other cause whatsoever, then all powers and duties conferred and imposed upon the President by this Act, or any other law or any resolution or ordinance now or thereafter adopted or enacted by the Commission, are to be exercised and performed by the Vice President during such period of incapacity.

9.4 Duties of Secretary. The Secretary has general supervision of the Town's records and documents. The Secretary must cause to be kept a true and faithful record of the proceedings of the Town Commission. During the temporary absence or disability of the President and Vice President, the Secretary acts as President and while so acting, is vested with all the powers, duties, and authority of the President. The Secretary also has such other duties as directed by ordinance or resolution of the Town Commission.

9.5 Duties of the Treasurer. The Treasurer has custody and supervision of all monies and financial records belonging to the Town. The Treasurer is responsible for the following:

9.5.1 The disbursement of all monies and control over all expenditures to assure budget appropriations are not exceeded;

9.5.2 Maintaining a general accounting system for the town in the form required by the Commission and in accordance State Law;

9.5.3 Submitting at the end of each fiscal year, and at such other times as the Commission may require, a complete financial report to the Commission;

9.5.4 Ascertaining that all taxable property within town jurisdiction is assessed for taxation;

9.5.5 Collecting all taxes, special assessments, licenses, fees, liens, and all other revenues, including utility revenues, and all other revenues for whose collection the Town of Hartly is responsible;

9.5.6 Maintaining custody of all public monies, belonging to or under control of the Town of Hartly, including maintaining custody of all bonds and notes of the Town of Hartly; and

9.5.7 Doing such other things as the President and Commission may require or as may be required elsewhere in this Charter.

9.6 Duties of Land Use Administrator. The Land Use Administrator is responsible for the following:

9.6.1 Maintaining and regulating adherence to the Town of Hartly Comprehensive Land Use Plan and Zoning Ordinance;

9.6.2 Issuing town permits, collecting fees, and monitoring adherence to said permits;

9.6.3 Coordinating and overseeing contractual agreements and partnerships with other government bodies or organizations; and

9.6.4 Such other things as the President and Commission may require or as may be required elsewhere in this Charter.

9.7 Duties of Town Solicitor. The Commissioners, by majority vote, must select and appoint a town solicitor for an indefinite term who is removable at the pleasure of the members of the Commission either with or without due cause stated. The town solicitor must be a member in good standing of the Bar of the State of Delaware. It is the solicitor's duty to give legal advice to the Commission and other officers of the Town, and to perform other legal services as may be required by the Commissioners.

9.8 Police Force. The Town Commission may establish and fund a municipal police force, consisting of one or more part-time or full-time police officers, and may employ such personnel as necessary to fill those positions within the police force as authorized and funded by the Commission.

9.8.1 All police officers with the authority to carry firearms and to make arrests with or without an arrest warrant must meet such standards and hold such certifications as required by and in accordance with state law.

9.8.2 Each police officer is vested with all power and authority, within the Town limits, and within one mile of said limits, of a State Peace Officer. They shall be conservators of the peace and shall suppress all acts of violence and enforce all laws relating to the safety and protection of persons and property.

9.8.3 The police officers are responsible for preserving peace and order and enforcing all ordinances enacted by the Town Commission within the limits of the Town. The police officers have the authority to enforce all criminal and motor vehicle laws enacted by the State of Delaware both within the limits of the Town and within one mile of the limits of the Town.

9.8.4 The police officers have the power to issue summons, to arrest pursuant to a warrant issued by any court of competent jurisdiction, and to arrest without a warrant upon view of any violation of state law or of any ordinance of the Town relating to peace and good order. The police force may execute all warrants issued by

any court of competent jurisdiction directed to such officers. In the case of a pursuit of an offender, the power and authority of the police force may extend outside the territorial limits of the Town to any part of the State.

9.9 Police Chief. The Commission may appoint a Chief of Police to serve at the direction of the Commission, who may be dismissed, demoted, or otherwise removed by the Commission in accordance with Chapter 93 of Title 11 of the Delaware Code, as amended, and any future corresponding provisions of law. The Chief of Police is responsible for the operational control of the daily routine and responsibilities of the police force. The authority of the Chief of Police is subordinate and answerable to the President and the Commission. The Commission may elect to not renew a Chief of Police's employment contract without a finding of just cause or holding a hearing under Chapter 93 of Title 11 of the Delaware Code, as amended, and any future corresponding provisions of law. In the event that the police force consists of only one police officer, that officer shall be classified as the Chief of Police.

9.10 Auditor. An independent auditor is to be appointed annually by the Town Commission to audit the accounts of the Town and all of its officers whose duty involves the collection, custody and payment of the moneys of the Town. The auditor must, on or before the date set by the Town Commission, annually make and deliver a detailed report of any and all accounts, records, and books examined and audited, which report shall be under the auditor's hand and seal. The auditor, in performing the auditor's duties, may access all records and accounts of the offices of the Town Commission, and the auditor is hereby authorized and empowered to employ such clerks as in the auditor's judgment may be necessary in the proper performance of the auditor's duties.

9.11 Compensation. The Commission is to establish the salaries and compensation of employees, officers and agents of the Town and the time and manner of payment, which salaries or compensations may not be increased without a majority vote of the Commission.

9.12 Bondedness. The Town Commission may, at the Town's expense, require any Town officer, agent, or employee to be bonded by a commercial bonding company in such amount and according to such terms as deemed necessary and appropriate by the Town Commission.

Section 9. Amend Section 10, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

10. Official Oath of Office

~~The President, the Treasurer, the Town Clerk, the Town Solicitor, Public Works/Building Inspector and the Commissioners~~ The President, Vice-President, Treasurer, Secretary, Land Use Administrator, and Commissioners shall severally be sworn or affirmed to the faithful and impartial performance of their respective duties and undertakings according to the best of their skill and judgement. The said Commissioners may qualify each other and the several officers appointed by them, and any and all other persons when necessary, by administering a proper oath or affirmation suited to the case. The certificates of such qualifications shall, after being duly administered as aforesaid, be recorded in a Town book procured by the Commissioners for that and

other purposes, stating the names, time and for what purposes such persons are so qualified, and shall be subscribed by the person administering such oath or affirmation, and the same shall be evidence in all cases.

Section 10. Amend Section 11, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(o) ~~May borrow money in the name of the Town for any proper municipal purpose and in order to secure the payment of the same to issue bonds or other forms or kinds of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Commissioners shall select for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt from all state, county or municipal taxes.~~ May impose, upon new development or construction or upon first time occupancy of new construction, such "impact fees" as are reasonably and proportionally calculated to recover the cost of installing, enlarging, improving, or expanding public or municipal improvements which have a rational nexus to such new construction; and/or to contribute to the costs of operations of those volunteer fire companies and/or ambulance or paramedic companies providing services within the Town.

(p) May borrow money in the name of the Town for any proper municipal purpose, and in order to secure the payment of the same, to issue bonds or other forms or kinds of certificate or certificates of indebtedness, pledging the full faith and credit of the Town or such other security or securities as the Commissioners select for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the Town are to be exempt from all state, county or municipal taxes. ~~The Commissioners may borrow~~ May borrow money in anticipation of revenues on the full faith and credit of the Town of Hartly such sum or sums not exceeding the collective amount of Twenty-Five Thousand Dollars (\$25,000) for all such loans ~~Ten Thousand Dollars (\$10,000.00) in any one year when, in the opinion of a majority of the Commissioners of the Town of Hartly, the needs of the Town require it. However, the~~ The Commissioners may borrow on the full faith and credit of the Town sums in excess of Twenty-Five Thousand Dollars (\$25,000) ~~Ten Thousand Dollars (\$10,000.00) but not exceeding Two Hundred Thousand Dollars (\$200,000.00)~~ Five Hundred Thousand Dollars (\$500,000) if such borrowing is approved by a majority referendum vote of the qualified voters of the Town of Hartly qualified to vote in municipal elections pursuant to Section 5.6. Notice of the holding of such referendum election ~~shall~~ must be authorized by resolution of the Commissioners, published ~~once a week, for at least two (2) consecutive weeks in one~~ in a newspaper of general circulation in the Town of Hartly at least 15 days prior to the date of the referendum. Such notice ~~shall~~ must set out in summary form the amount and purposes of such borrowing, the date and place of holding the referendum election and the hours the polls will be open. Any sum so borrowed ~~shall~~ must be secured by promissory notes of the Town of Hartly, duly authorized by resolution adopted by the Commissioners of the Town of Hartly, signed by the President of the Commission, and attested by the Secretary of the Commission with the corporate seal affixed, and no member of the Commission shall be liable for the payment of such notes because it is signed by them as officers of the Town and is authorized by the resolution of the Commissioners; provided however,

that the total sum outstanding at any one time for all loans shall not exceed Five Hundred Thousand Dollars (\$500,000) ~~Two Hundred Thousand Dollars (\$200,000.00)~~, and provide further that such ad valorem taxes shall be levied as are necessary to pay the principal or the interest on said notes as is required without regard to any other limitation concerning the maximum rate of the taxation and such notes and the interest thereon shall be exempt from all taxation by the State of Delaware or by any political subdivision, agency or subdivision thereof.

Section 11. Amend Section 11, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(s) May define, abate, demolish, and remove dangerous buildings and other dangerous structures in the Town, including the power to condemn and cause to be torn down and removed any structure which, upon inspection by the Land Use Administrator or the Land Use Administrator's designee, Public Works/Building Inspector, is determined to be a fire hazard or otherwise be unsafe; provided, however, that any such ordinance shall provide procedures for notice and opportunity to be heard and to correct the hazardous condition by the affected property owner and/or lienholders, ~~and to otherwise comply with Chapter 39, Title 25, Del. C. of 1974, and all amendments heretofore or hereafter adopted.~~

Section 12. Amend Section 11, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(w) May regulate and control the manner of building, addition to or alteration and repair of an existing building, or removal of dwelling houses and other buildings; establish a code for the same and provide for the granting of permits for the same; establish a building line for buildings to be erected; and the Commissioners may delegate such duties to the Land Use Administrator ~~public Works/Building Inspector~~ as they deem necessary or desirable to carry into effect the purposes of this subsection.

Section 13. Amend Section 11, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(z) May license, tax and collect fees of such various amounts as the Town Commission fixes from time to time from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation, or renting out any real or personal property, within the limits of the Town.

(aa) May grant licenses and impose fees for licenses, issue permits, and regulate any activity within the corporate limits of the Town.

(bb) May grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such consideration as the Town Commission deems in the best interest of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, sidewalks, crosswalks, and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, railroad (excepting railroads or railways engaged in Interstate Commerce), bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof; provided,

however, that whenever any state or federal law grants jurisdiction over any such activity to a state or federal agency, the Town has no authority inconsistent therewith.

(cc) May regulate and control the exercise of any license or franchise mentioned in Section (bb) of this Charter, or intended so to be.

(dd) May define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and to cause the cost of such abatement or removal to be paid by the legal entity causing or permitting same to exist.

Section 14. Amend Section 13, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

13. Commission Procedure; Meetings

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

~~(a) Personnel matters in which names, competency and abilities of current or prospective employees are discussed.~~

~~(b) The hearing of employee disciplinary or dismissal cases unless the employee requests a public hearing.~~

~~(c) Discussion of the contents of documents considered to be "nonpublic", including personnel files, commercial or financial information obtained from a person which is of a privileged or confidential nature, records pertaining to pending or potential litigation which are not records of any court, records of discussion held in executive session or any records specifically exempted from public disclosure by statute or common law.~~

~~(d) Discussions which would disclose the identity of the contributor of a bona fide and lawful charitable contribution to the Town whenever public anonymity has been requested of the Town by said contributor.~~

~~(e) Discussion of potential or actual emergencies related to preservation of the public peace, health and safety.~~

~~(f) Where the Commission has requested the town solicitor to render his legal advice or opinion concerning an issue or matter under discussion by the Commission and where it has not yet taken a public stand or reached a conclusion in the matter.~~

~~(g) Preliminary discussions on site acquisitions for any publicly funded capital improvements. In addition, the general subject matter under consideration at the executive session shall be expressed in the motion calling for such session, and final action thereon shall not be taken by the Commission until the matter is placed on the agenda.~~

~~Executive sessions may be held only for the discussion of public business, and all voting on public business must be made at a public meeting and the results of the vote made public, unless disclosure of the~~

~~existence or results of the vote would disclose information properly the subject of an executive session pursuant to subsections (a)-(g) of this Section.~~

Section 15. Amend Section 14, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

14. Rules and Journal

~~The Commission shall determine its own rules and order of business and the town clerk shall keep a journal of its proceedings. This journal shall be a public record.~~ The Commission may determine its own rules of procedure and order of business. The Town Secretary keeps a public record of its proceedings.

Section 16. Amend Section 18, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

18. Town Budget

(a) ~~The fiscal year for The Town of Hartly shall be as determined by resolution of the Commissioners.~~ Unless revised by ordinance duly adopted by the Town Commission, the Town's fiscal year runs from January 1st through December 31st of each year.

(b) ~~Annually each year and not later than sixty (60) days prior to the beginning of the next fiscal year, the Commissioners shall prepare a rough draft of the Town Budget~~ is prepared by or under the direction of the Treasurer. From this rough draft, the Commissioners shall not later than the regular meeting following the presentation of the such rough draft prepare the budget containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year. The Commissioners shall fix a time and place for a public meeting on the subject of the proposed budget.

(c) ~~The budget shall contain,~~ contains, at a minimum, the following information:

~~(1) A detailed estimate showing the expense of conducting each office of the Town for the ensuing fiscal year;~~

~~(2) The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof;~~

~~(3) The amount of the debt of the town, together with the schedule of maturities of Bond issues;~~

~~(4) (1) An itemized statement of all other estimated expenses to be incurred in the affairs of the Town for the ensuing fiscal year;~~

~~(5) (2) A statement of the amount required for interest on the bonded debt, the amount necessary to pay any bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds"; and~~

~~(6) (3) An estimate of the amount of money to be received from taxes, assessments, and all other anticipated income of the Town from any source or sources whatsoever.~~

(d) ~~The budget shall be printed in a newspaper having a general circulation~~ may be displayed in a public place in the Town of Hartly and on any website of the Town, at least ~~once a week for two (2) weeks~~ prior to the date set forth for a public meeting on the matter.

Section 17. Amend Sections 20, 21, 22, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

20. Town Assessment

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

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

In addition, the Treasurer ~~shall be~~ is authorized to add to said assessment list any and all charges, costs, or other assessments owed to the Town, including but not limited to curb and gutter assessments, sidewalk assessments, sewer and surface drainage assessments, ~~grass-cutting yard maintenance, building permit,~~ and street lighting charges. This list shall be the official assessment list of the Town and the Town is authorized to collect all amounts added to the assessment list in the same manner as the Town is authorized to collect outstanding taxes. ~~and shall be delivered to the Commissioners within thirty days for their examination.~~ If corrections need to be made, the Commissioners, by recorded majority vote, may make all needed corrections.

21. Assessment Publicly Posted

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

22. Assessment Appeal Meeting

The assessment appeal meeting shall be held no later than June 30th of each year and shall be kept open from at least 7 P.M. until 9 P.M. local time of the announced day, which shall also be stated in said notices, and shall be held at such place as named in said notices, and as soon after the posting of said list as conveniently may be. At the said assessment appeal meeting the Commissioners shall hear and determine the appeals and make such changes or alterations in all appeal cases as to them shall seem just and proper.

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

Section 18. Amend Section 26, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

26. Collection and Tax Liens

~~The Treasurer shall immediately after receiving said list from the Commission proceed to collect the taxes as written and contained in said list. The Treasurer, in collecting such taxes, shall have all powers conferred by law upon the collectors of school taxes, and of county taxes, by virtue of the laws of Delaware now in force or hereafter enacted.~~

26.1 The Treasurer is to proceed to collect those amounts on the assessment list immediately after receiving the assessment list from the Commission.

26.2 All taxes, charges, costs, and assessments levied on real estate under authority of this Charter shall be and continue as a lien against the property assessed for a period of ~~five~~ ten (10) years from the date prescribed herein for the delivery of the assessment list to the Treasurer, provided that if the real estate remains the property of the person or legal entity who was the owner at the time it was so assessed, the lien will continue until the same is collected in full. Such lien may be extended in the same manner as provided by law for the extension of tax liens for Kent County taxes. In addition such lien shall have preference and priority over all other liens of record on such real estate created or suffered by the said taxable, although such other lien or liens be of a date prior to the time of the attaching of the Town lien for taxes.

26.3 In the collection of delinquent taxes (including any and all charges, costs, or other assessments owed to the Town and added to the assessment list pursuant to Section 20), the Treasurer has all of the same powers, remedies, and authority, including the monition method of the collection of taxes, as conferred by Title 9 of the Delaware Code, as amended, and any future corresponding provisions of law, upon those individuals and/or departments authorized to collect delinquent taxes in Kent County. Before instituting any legal action for the collection of taxes, written notice of the amount due must be sent to the taxable at the taxable's last known address.

26.4 In effecting a collection of any delinquent tax or any other charges, costs, or assessments due to the town and added to the tax assessment list, the Town may recover the costs of collection, including all court costs, sale costs, reasonable and necessary out-of-pocket expenses, and reasonable attorney's fees incurred by the Town in the collection proceedings. The collection costs constitute a lien on all of the real estate of the taxable, becoming a part of, relating back to, and having the same preference and priority as the lien of the underlying amounts owed.

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

Section 19. Amend Section 31, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(b) ~~It shall be the duty of the Public Works/Building Inspector to~~ The Town must give at least 15 days' notice in writing to the owner or owners of the property affected by the action of the Commissioners. Said notices shall be served in the following manner: a copy thereof shall be delivered personally to the owner or owners of said property, or a copy thereof shall be left with the tenant in possession of the property, or a copy thereof shall be sent by registered mail to the last known post office address of the owner or owners of the said property or properties so affected. Service of such notice by either of said methods shall be sufficient to bind the owners or owners under the provisions of this Charter.

Section 20. Amend Section 33, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

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

Section 21. Amend Section 34, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

When work ordered under Section ~~31~~ 32 is completed, the Town shall recover all the costs and charges incurred, including any skillful superintendent's charges for ~~his services in~~ managing and directing the same, by action in the name of "The Town of Hartly" before any Justice of the Peace in said county or any court of this State, as circumstances of jurisdiction may require.

Section 22. Amend Section 35, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

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

Section 23. Amend Section 36, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

~~36. Sewer System~~ [Reserved]

~~The Commissioners shall have full power and authority to provide, construct, extend, maintain, manage and control a sewer system for the health, sanitation and convenience of the inhabitants of the Town, on, over,~~

~~under, or through the streets, alleys, lanes, roadways or other highways, or on, over under or through the lands of any person.~~

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

~~(a) The Commissioners, at such time as they shall determine that the construction and maintenance of a sewer system and/or sewage treatment facility is in the best interest of the Town, shall adopt a resolution favorable to the construction and maintenance of said sewer system and/or sewage treatment facility. The resolution shall give a general description of the proposed sewer system and/or sewage treatment facility and include a listing of the property owners affected by such proposal. The resolution shall also state the day, hour and place where the Commissioners will hold a public meeting for the purpose of entertaining public comment on the proposed sewer system and/or sewage treatment facility.~~

~~(b) Copies of such resolution shall be posted in at least two (2) of the most public places in the Town for at least two (2) weeks prior to the date fixed by the Commissioners for the public meeting.~~

~~(c) After entertaining public comment, the Commission shall, at said meeting or at a subsequent date, as it may deem proper adopt a resolution to proceed with, alter, or abandon the proposed plan for a sewer system and/or sewage treatment facility as contemplated in its aforementioned prior resolution.~~

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

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

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

~~Section 24. Amend Section 37, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:~~

~~37. The Commissioners shall have the full jurisdiction and control, within the limits of the Town, of the drainage of all water thereof, together with the right to alter and change the course and direction of any of the~~

natural water courses, runs and rivulets within the limits of the Town and the right to open gutters, surface water and underground drains and sewers within the limits of the Town.

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

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

37.3 The Commissioners shall have the power to enact ordinances, rules and regulations regarding the surface drainage of the Town. ~~The Public Works/Building Inspector shall be~~ Land Use Administrator or the Land Use Administrator's designee is responsible for the daily supervision of the surface drainage of the Town, under the direction of the Commissioners.

Section 25. Amend Section 38, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

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

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

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

38.4 ~~The Public Works/Building Inspector shall be~~ Land Use Administrator or the Land Use Administrator's designee is responsible for the daily supervision of the street lighting, under the direction of the Commissioners.

Section 26. Amend Sections 39, 40, and 41, Chapter 210, Volume 64, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

~~Section 39. Duties of President~~

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

~~Section 40. Town Solicitor~~

~~The Commissioners, by majority vote, shall select and appoint a town solicitor for an indefinite term who shall be removable at the pleasure of the members of the Commission either with or without due cause~~

stated. The town solicitor shall be a member in good standing of the Bar of the State of Delaware, with offices in Kent County. It shall be his duty to give legal advice to the Commission and other officers of the town and to perform other legal services as may be required of him by the Commission.

Section 41. Compensation

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

39. Actions or Suits.

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

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

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

41. Survival of Powers and Validating Section.

(a) All the powers conferred upon or vested in the President and Commission of the Town by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the Town and its President and Commission precisely as if each of said powers was expressly set forth in this Charter.

(b) All ordinances adopted by the President and Commission and in force at the time of approval, acceptance, and going into effect of this Charter are continued in force until the same or any of them are repealed, modified or altered by the President and Commission under the provisions of this Charter.

(c) All of the acts and doings of the President and Commission or of any official of the Town Commission which have been lawfully done or performed under the provision of any law of this State or of any ordinance of the Town or under any provision of any prior Charter of the Town Commission prior to the approval, acceptance, and going into effect of this Charter are hereby ratified and confirmed, unless otherwise provided herein.

(d) All taxes, assessments, license fees, penalties, fines, and forfeitures due to the President and Commission or the Town are due to the Town, and all debts from the Town or the President and Commission will remain unimpaired until paid by the Town.

(e) All powers granted by this Charter with respect to the collection of taxes, license fees, assessments, or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments, or other charges heretofore lawfully imposed by the President and Commission.

(f) The bonds given by or on account of the President or any official of the Town Commission are not impaired or affected by the provisions of this Charter.

(g) If any part of this Charter is found to be unconstitutional or invalid by a Court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions of this Charter.

(h) This Charter is to be taken as and deemed to be a Public Act of the State of Delaware.