

ORDINANCE #: 10-03-2016-001

AN ORDINANCE ESTABLISHING BUILDING AND GENERAL CONSTRUCTION, ALTERATION, AND DEMOLITION PROCEDURES, PERMITS, AND FEES

WHEREAS, Section 11 (y) of the Charter of Hartly authorizes Town Commissioners to “pass ordinances and rules for the good government and good order of the Town and for all matters relating to the general health, safety, morals, peace, and welfare of the Town”;

WHEREAS, Section 11 (w) of the Charter of Hartly authorizes Town Commissioners to “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 delagate such duties to the public works/building inspector as they deem necessary or desirable to carry into effect the purposes of this subsection”;

WHEREAS, Section 16 of the Charter of Hartly authorizes the Town Commissioners “to vote on and enact all ordinances which may be requisite to secure good government to meet the lawful needs of the Town and its residents and for all matters relating to the general health, safety, morals, peace and welfare of the Town”;

WHEREAS, in the opinion of the Town Commissioners of the Town of Hartly, an ordinance establishing Building and General Construction, Alteration, and Demolition Procedures, Permits, and Fees is necessary to accomplish the objectives outline in the Town of Hartly Charter and the proposed 2016 Town of Hartly Comrehensive Plan;

BE IT HEREBY ENACTED by the Town Commissioners of the Town of Hartly, a majority thereof concurring in council duly met, that all previously adopted ordinances that are inconsistent with this ordinance are hereby repealed and the following ordinance, #10-03-2016-001, “An Ordinance Establishing Building and General Construction, Alteration, and Demolition Procedures, Permits, and Fees” be, and hereby is, adopted as follows:

Section 1. APPLICABILITY. This ordinance shall be applicable to all property owners, renters, tenants, and contracted party of real property within the corporate limits of the Town of Hartly.

Section 2. DEFINITIONS. As used in this ordinance, the following terms shall have the specified meaning:

2.1 Owner/s – shall mean any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or Municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

2.2 Renter/Tenant – shall mean any person/s permitted to occupy a dwelling, dwelling unit, rooming unit, building, premise or structure who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of said dwelling, dwelling unit, rooming unit, building, premise, structure or land on which it resides.

2.3 Contracted Party – shall mean any person, agent, operator, firm or corporations having an agreement with property owner or renter/tenant to maintain real property within the corporate limits of the Town of Hartly.

2.4 Building/Structure – shall mean a building/structure having a roof supported by columns, poles, or walls for the housing or enclosure of persons, animals, or miscellaneous belongings and any part or parts thereof. Additionally, the term Building/Structure shall include, among other things, manufactured homes, trailers, sheds, walls, fences, and billboards.

2.5 Construction – shall mean the erection of a building/structure or any part or parts thereof.

2.6 Alteration – shall mean the change and/or repair of a building/structure or any part or parts thereof.

2.7 Demolition – shall mean the destruction and/or removal of a building/structure or any part or parts thereof.

Section 3. UNLAWFUL ACTION. It shall be unlawful for any owner, renter/tenant, or contracted party to erect, construct, alter, repair, remove, and/or demolish a building/structure on property of grounds within the corporate limits of the Town of Hartly without a written permit being issued from either the Town of Hartly Public Works or Town of Hartly President..

Section 4. ENFORCEMENT. The provisions of this ordinance may be enforced by the Town of Hartly Commissioners or by another individual, entity, or agency as approved by a majority of Town of Hartly Commissioners.

Section 5. PROCESS.

5.01 - The owner, renter/tenant, or contracted party shall, before commencing work, submit an application in writing to the Town of Hartly, which application shall contain the following:

- a. The name and addresses of the owners, renter/tenant, or contracted party of the property upon which the proposed work is to be done;
- b. An accurate description of the location of the lands or premises upon which the construction, alteration or demolition is to be done, preferably the Kent County Map ID number(s);
- c. For any construction of a building or building addition: A detailed schematic drawing or plan of the proposed work to be done, to include, when applicable, the overall square footage of the structure;
- d. For any general construction or alterations of a building: A detailed description of the work proposed to be done;
- e. For any structure demolition: A detailed description of the work proposed to be done, to include, when applicable, the overall square footage of any structure being demolished;
- f. The nature of the use to be made of the building or general construction, including, if the structure is to be used for business or commercial purposes, the nature of such business or commercial purpose; and
- g. If the owners or the property shall be or employ a general contractor, who may in turn employ or utilize subcontractors at any time during the course of the proposed work, then the application shall also contain the names, addresses, and telephone numbers of any such subcontractors. In the event that the names, addresses, and telephone numbers of any such subcontractors are not disclosed as required by this Ordinance, with the consequence that such subcontractors do not pay any business license fees which otherwise would have been assessed or imposed pursuant to Town of Hartly Ordinances, as amended, then the general contractor shall be responsible and liable for any such business license fees.

5.02 – If the plans, specifications, and application submitted to the town conform to the requirements of this Ordinance and/or any ordinances or amendments supplemental hereto, the Town of Hartly Public Works and/or Town of Hartly President shall, issue a building permit to such applicant. The plans, specifications, and application shall be either approved or rejected within

a period of (60) days from the date of the filing of the plans, specifications, and applications for such building construction, alteration, or demolition permit.

5.03 - The Town of Hartly Public Works Commissioner shall have the power to cancel or revoke any permit for any material misrepresentation, variation, or departure from the approved plans, specifications, and applications, and also for any false statement or misrepresentations as to a material fact relating to the erection, construction, alteration, repair, removal, demolition, use, or occupancy of such building or structure. Upon the cancellation or revocation of any building permit granted under the provisions of this Ordinance, no further work shall be done except as shall be directed by the Public Works Commissioner in order to protect life or property, until the original or new plans, specifications, and application upon which such permit was issued shall be complied with, or until new plans, specifications, and application shall be approved and a new permit issued.

5.04 – No permit shall be issued by the Town of Hartly Public Works Commissioner or Town of Hartly President pursuant to this Ordinance unless the applicant for said permit shall pay for the use of the Town the following fees:

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| Commercial Use: | | |
| | New Building Permit | \$1.00 per Square Foot |
| | Building Addition | \$0.50 per Square Foot |
| | Updates (fence, new sign, new siding, etc) | \$100.00 Flat Fee |
| Residential Use: | | |
| | New Building Permit | \$0.45 per Square Foot |
| | Building Addition | \$0.225 per Square Foot |
| | Updates (fence, new sign, new siding, etc) | \$30.00 Flat Fee |
| Commercial or Residential Structure Demolition: | | |
| | Greater than 1000 Square Feet | \$100.00 plus any and all expenses that may be incurred by the Town |
| | Less than 1000 but Greater than 500 Square Feet | \$50.00 plus any and all expenses that may be incurred by the Town |
| | Less than 500 Square Feet | \$25.00 plus any and all expenses that may be incurred by the Town |

5.05 – Whenever an application for a permit shall have been rejected under the provisions of this Ordinance, the applicant for such permit shall have the right to appeal to the Town Council of the Town of Hartly. Upon the filing of such an

appeal with the Town Council, the Town Clerk shall give notice thereof to the President of the Town Council, who shall fix a date for the hearing of such an appeal, which date shall not be less than ten days nor more than 60 days after the filing of such appeal. At the time of the hearing of such appeal, the appellant, as well as any other person or persons affected by the proposed erection, construction, alteration, repair, removal, demolition, use, or occupancy of such proposed building or structure, shall have a right to be heard.

5.06 – Any building permit issued by the Town of Hartly Public Works Commissioner or Town of Hartly President pursuant to this Ordinance shall be valid for a period of one (1) year from the date of issuance. If the work permitted to be done by the permit is not completed within one (1) year from the date of issuance of the permit, no further work may be performed in the erection, construction, alteration, repair, removal, demolition, use, or occupancy of the building or structure unless the applicant reapplies for an entirely new building permit in accordance with the provisions of this Ordinance.

5.07 – Building, general construction, and alterations erected, constructed, altered, repaired, removed, demolished, used within the Town of Hartly shall be done so in accordance with standards and specifications determined by the Kent County Inspections and Enforcements.

5.08 – Sewer or water facilities erected, constructed, altered, repaired, removed, demolished, used within the Town of Hartly shall be done so in accordance with standards and specifications determined by the Kent County Sewer and Water Authority or the Department of Natural Resources and Environmental Control of the State of Delaware, whichever agency has governing authority or whichever agency may be appropriate under the circumstances.

5.09 - Electrical substations or transformers erected, constructed, altered, repaired, removed, demolished, used within the Town of Hartly shall be done so in accordance with standards and specifications determined by the appropriate governing agency of the State of Delaware.

5.10 - Sidewalks, driveways, curb cuts, pavements, streets, roadways, streetlights, and road signs erected, constructed, altered, repaired, removed, demolished, used within the Town of Hartly shall be done so in accordance with standards , and specifications determined by the Department of Transportation of the State of Delaware or whichever agency may be appropriate under the circumstances.

Section 6. FAILURE TO COMPLY. Any violation or refusal to comply with the provisions of this Ordinance, or any regulation or administrative order promulgated hereunder, will result in a Fifty Dollar (\$50.00) fee, for each and every day that any violation of this Ordinance shall continue, issued to said **owner** of property as identified by Kent County Property Records and/or records obtained during the permitting process.

Section 7. PAYMENT OF FEES. The town shall deliver in person, via electronic mail, or U.S. Postal mail an invoice to the property **owner** for the fees incurred to abate the ordinance violation. If not paid the fees will be added to the Town's annual tax assessment invoice and as such shall constitute a lien upon the property.

Section 8. EFFECTIVE DATE. This ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force and effect from March 10, 2016 and after the date of its final passage and adoption.

This shall certify that this is a true and correct copy of Ordinance # 10-03-2016-001 titled "AN ORDINANCE ESTABLISHING BUILDING AND GENERAL CONSTRUCTION, ALTERATION, AND DEMOLITION PROCEDURES, PERMITS, AND FEES" duly adopted by the Town Council of the Town of Hartly at a duly-noticed and convened meeting at which a quorum was present on April 14, 2016.

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| | | So Certifies: |
| Attest: | <u>Suzanne K. Thomas</u> Town of Hartly Town Clerk | <u>Christine Oldham</u> Town of Hartly President |
| Dated: | <u>April 14, 2016</u> | <u>April 14, 2016</u> |