

151st General Assembly

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

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

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

3 1. Incorporation

4 The inhabitants of the Town of Hartly within the limits and boundaries hereinafter described in
5 Section 2 of this Charter, as the same may from time to time hereafter be revised, shall be and constitute a
6 body politic and corporate in law and equity, and shall be known and identified as the "Town of Hartly."

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

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

17 2. Town Limits

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

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

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

35 3. Annexation of Territory

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

59 (b) ~~Five (5) or more~~ Less than all of the property owners of a territory contiguous to the then
60 limits and territory of the Town of Hartly by written petition with the signature of each such petitioner

61 duly acknowledged, may request the Commission to annex that certain territory in which they own
62 property. The petition presented to the Town Commission shall include a description of the territory
63 requested to be annexed and the reasons for the requested annexation; or the commissioners, by majority
64 vote of the elected members thereof may, by resolution, propose that a committee composed of not less
65 than three persons be appointed by the President to investigate the possibility of annexing any certain
66 territory contiguous to the then limits and territory of the Town of Hartly. Such committee shall have at
67 least one elected member of the Commission among its numbers.

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

70 ~~(+)~~ (L) If the territory proposed to be annexed includes only territory which is exempt from
71 taxation or which is not assessed on the books of the Board of Assessment of Kent County, no election
72 shall be necessary and the Commissioners of the Town of Hartly may proceed to annex such territory by
73 receiving a certified copy of a resolution requesting such annexation, if such property is owned by a
74 corporation, or by a written petition with the signature of each such petitioner duly acknowledged, if such
75 property is owned by an individual, requesting the Commissioners to annex that certain territory in which
76 they own property. The certified copy of the resolution or the petition shall include a description of the
77 territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the
78 certified copy of the resolution or the petition, the President of the Commission shall appoint a committee
79 composed of not less than three persons to investigate the possibility of annexation. Such committee shall
80 have at least one elected member of the Commission among its numbers. Within ninety days the
81 committee shall submit a written report containing its findings and conclusions to the Commissioners.
82 The report so submitted shall include the advantages and disadvantages of the proposed annexation both
83 to the Town of Hartly and to the territory proposed to be annexed and shall contain the recommendation
84 of the committee whether or not to proceed with the proposed annexation. In the event that the committee
85 concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to
86 be annexed, the Commissioners may then pass a second resolution annexing such territory to the Town of
87 Hartly. Such resolution shall be passed by the affirmative vote of three-fifths (3/5) of all the elected
88 members of the Commission. In the event that the Committee concludes that the proposed annexation is
89 disadvantageous either to the Town or to the territory proposed to be annexed, the resolution shall be
90 passed by four-fifths (4/5) of all the elected members of the Commission. If the resolution fails to receive
91 the required number of votes, no part of the territory proposed for annexation shall again be proposed for
92 annexation for a period of one (1) year from the date that the resolution failed to receive the required
93 votes. If the resolution receives the required number of votes, the Commissioners of the Town of Hartly

94 shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder
95 of Deeds in and for Kent County, and in no event shall such recordation be completed more than ninety
96 (90) days following the passage of the resolution. The territory considered for annexation shall be
97 considered to be a part of the Town of Hartly from the time of recordation. The failure of the
98 Commissioners to record the description and plot within the time hereinbefore specified shall not make
99 the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety
100 (90) day period from the date of the passage of the resolution.

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

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

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

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

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

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

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

118 ~~Section 4. Commissioners, Qualification of~~

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

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

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

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

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

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

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

130 4.1. Structure of Government. The government of the Town of Hartly and the exercise of all
131 powers conferred by this Charter are vested in and exercised by five (5) Commissioners, all of whom
132 shall be elected at large by the qualified voters of the Town of Hartly.

133 4.2. Qualifications for Town Commissioners. Candidates for the office of town commissioner
134 must be at least eighteen (18) years old, have not been convicted of a felony or of any crime involving
135 fraud, bribery, or embezzlement, have been a bona fide domiciliary of the Town of Hartly for at least one
136 year prior to the date of the election, and have been otherwise qualified to vote at the annual Town
137 election as provided for herein. For purposes hereof, a "bona fide domiciliary" means that a person has
138 their true, fixed, and permanent home and principal establishment in the Town of Hartly to which,
139 whenever they are absent, they have the intention of returning and physically resides in the Town of
140 Hartly on a continuing basis, provided that absence for less than ninety days at a time from one's place of
141 domicile for some temporary purpose shall not terminate that domicile so long as the intention to return to
142 that place remains fixed, certain, and constant during the period of such physical absence.

143 4.3. Term of Office. Each Commissioner shall serve a term of two years. Commissioners in
144 office at the time this Charter is enacted by the General Assembly will hold their offices for the residue of
145 the term for which they were previously elected. At each election to be held annually thereafter there will
146 be elected, each for a term of two (2) years, two (2) Commissioners in even numbered years and three (3)
147 Commissioners in odd numbered years.

148 4.4. Compensation. Commissioners will be reimbursed for all documented out-of-pocket
149 expenses incurred by them in carrying out the responsibilities of their office. Commissioners may be
150 compensated a fixed sum for each regular or special meeting of the Town Commission attended when
151 authorized by a resolution adopted by at least four (4) Commissioners. The Treasurer, Town Secretary
152 and Town Solicitor are to receive reasonable compensation for their services, as determined by the
153 Commissioners. By unanimous vote of those members present at any meeting of the Commission at
154 which a quorum is present, any member of the Commission may be reimbursed for those actual,
155 reasonable, and necessary expenses incurred in the performance of the business of the Town. Any
156 member requesting reimbursement must present documented proof of such expenditures.

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

159 5. Election of Commissioners

160 ~~On the last Saturday in April next following the enactment of this Charter, and on the last~~
161 ~~Saturday in April annually thereafter, at a location chosen by the Commissioners, the Town shall conduct~~
162 ~~its annual election, by ballot, and shall elect those persons required to fill any vacancies among the~~
163 ~~Commissioners. The Commissioners shall advertise the place, date and times of the election at least once~~
164 ~~a week for two successive weeks immediately prior to said election in a newspaper of general circulation~~
165 ~~in the Town of Hartly, and post public notices containing that information in at least two (2) public places~~
166 ~~within the Town of Hartly at least two (2) weeks prior to the day of the election. At the election to be held~~
167 ~~on the said last Saturday in April following the approval of this Charter, the polls shall remain open from~~
168 ~~2 P.M. until 4 P.M. local time, and five Commissioners shall be chosen, two for two years, and three for~~
169 ~~one year. At each and every election to be held annually thereafter there shall be chosen, each for a term~~
170 ~~of two years, Commissioners in the places of the Commissioners whose terms of office shall then expire,~~
171 ~~and residents shall likewise elect Commissioners to fill only unexpired terms occasioned by vacancy or~~
172 ~~forfeiture.~~

173 5.1 Time, Place, and Notice of Annual Elections. The annual municipal elections are to be held
174 the last Saturday in April. The polls must remain open for at least five (5) hours at such place as are
175 determined by the Commissioners. The notice of elections must be conspicuously posted in at least one
176 public place in Town at least twenty (20) days prior to the election date. The notice of elections must
177 include the date, time, and place of the election, the candidates for office, and the qualifications to vote.
178 All election notices must be posted in accordance with Chapter 75 of Title 15 of the Delaware Code, as
179 amended, and any future corresponding provisions of law.

180 5.2 Notice of Solicitation of Candidates; Filing Deadline and Procedure. A notice of solicitation
181 of candidates must be posted in at least one public place in town, at least twenty (20) days prior to the
182 filing deadline. The notice of solicitation of candidates must identify the term or terms up for election, the
183 filing deadline date, the procedure for declaring candidacy, and the qualifications for holding office. In
184 order to be listed on the ballot at any regular Town election, each candidate must file a written and signed
185 notice of intention to seek office with the Town, on a form prescribed by the Town, before five o'clock in
186 the afternoon on the last Friday in March. Such form must contain an affidavit that the candidate meets all
187 the qualifications for office.

188 5.3 Filing Certificate of Intention and Statement of Organization. All candidates must file a
189 certificate of intention or statement of organization if either is applicable and required under Chapter 75
190 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions of law.

191 5.4 Determinations Concerning Qualifications. If it is determined that a candidate may not meet
192 the qualifications for office, the President must call a special meeting of the Town Commission to be held
193 at least twenty-one (21) days prior to the date of the election, at which the Town Commission will decide
194 the matter. The candidate whose qualifications are at issue must be notified, by registered mail or personal
195 delivery, of the date, time and place of the meeting at which he or she may appear and testify. If the Town
196 Commission determines that the candidate does not meet the qualifications for office, it will reject the
197 candidate's notice of intention and the candidate's name will not appear on the ballot. In making the
198 determination, only those members of the Town Commission who are not competing candidates are
199 entitled to vote on the question.

200 5.5 Compliance with State Regulations. The Town must follow the rules governing the conduct of
201 elections and voting procedures, and must otherwise act in accordance with the state laws governing
202 municipal voting, as found in Chapter 75 of Title 15 of the Delaware Code, as amended, and any future
203 corresponding provisions of law. The Town must implement the election provisions found in this Charter
204 in accordance with the same state laws governing municipal voting. The Town may, by ordinance or
205 resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state
206 or federal law, governing the conduct of elections.

207 5.6 Voter Qualifications; Voter Registration. Any person will be qualified to vote who, on the
208 date of the election:

209 (a) is a United States citizen;

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

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

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

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

217 Any person who is enlisted or engaged in any government service of the United States or any military
218 organization of this State of the United States, which service requires them to reside outside the Town
219 limits, will be considered a bona fide domiciliary of the Town of Hartly during the period of service so
220 long as it remains their actual intention to retain the Town of Hartly as their fixed and permanent home.
221 The Town Commission may enact ordinances concerning the registration of qualified voters for
222 municipal elections in the Town as it deems reasonably necessary to provide for the orderly and efficient
223 conduct of municipal elections, provided that no such ordinances may alter the qualifications of voters as

224 hereinabove set forth, nor may any such ordinances unduly impair the right to vote in a municipal
225 election.

226 5.7 Absentee Ballots. The Commission may (but is not required to), by ordinance, provide for a
227 qualified voter (duly registered if required by ordinance) who is unable to appear in person to vote at any
228 municipal election by absentee ballot. Whenever absentee voting is permitted, all notices must contain
229 information about how to obtain an absentee ballot. All absentee voting authorized by the Town must be
230 conducted in accordance with Chapter 75 of Title 15 of the Delaware Code, as amended, and any future
231 corresponding provisions of law.

232 5.8 Uncontested Elections. If the number of qualified candidates who file to run for office is not
233 greater than the number of offices up for election, it is not necessary to hold an election and those
234 qualified candidates who filed to run for office are deemed elected for the full term of the office. A notice
235 of election cancellation must be advertised in the same manner that the notice of solicitation of candidates
236 was advertised.

237 5.9 Election Results; ties; preservation of ballots and records. Within forty-eight (48) hours of the
238 close of the election, the Board of Elections must count the votes, and the candidate(s) having the highest
239 number of votes for each office is to be declared by the Board of Elections as elected to such office. In the
240 event of a tie vote for any office, the Board of Elections may break such tie by the toss of a coin or any
241 other method mutually agreed upon by the tied candidates. All ballots cast and all records of the election
242 kept by the Board of Elections are to be preserved in the custody of the Board of Elections for a period of
243 thirty (30) days, unless the election is contested or an appeal is filed in a court of appropriate jurisdiction,
244 in which case such ballots and records are to be preserved until further direction of the reviewing body or
245 court. No candidate may take office before the seventh day following certification of the election.

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

248 8. Elections Board

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

252 ~~The Election Board shall pass upon the qualifications of voters and conduct the election, keeping a list of~~
253 ~~all persons who vote. At the close of such election the Board shall canvas the votes, and the candidates~~
254 ~~having the highest number of votes for each office shall be declared elected. Certificates shall be made~~
255 ~~out and delivered to the person or persons so elected, and the results of the election shall be noted on the~~

256 records of the Town. In the event of a tie, the Elections Board shall, by majority vote, determine who is to
257 be elected.

258 8.1 A Board of Election consisting of three (3) individuals must supervise each election. The
259 Board of Elections members must be qualified voters of the Town and must not be an elected official or
260 candidate for Town office or an immediate family member of such (mother, father, son, daughter, brother,
261 sister, including half-brothers and sisters, step-family members and in-laws). The Board of Elections shall
262 be appointed by the Town Commission at least twenty (20) days before an election and shall serve for a
263 term of one year, provided that the Board's term shall not expire until a successor Board has been
264 appointed. Members of the Board of Elections may serve for more than one term.

265 8.2 Each board member's name and contact information must be publicly posted in accordance
266 with Chapter 75 of Title 15 of the Delaware Code, as amended, and any future corresponding provisions
267 of law. The Town will notify the State Election Commissioner and Kent County Department of Elections
268 of the members appointed to the Board of Elections.

269 8.3 The Board of Elections will oversee the absentee ballots and either appoints an odd number of
270 absentee ballot judges or, at the discretion of the Town Commission, acts itself as the absentee ballot
271 election judges. If, at the opening of the polls, there shall not be present all the members of the Board of
272 Elections, the ranking Town officer available at the opening of the polls shall appoint a qualified voter or
273 voters to temporarily fill such vacancies through the conclusion of the election. The Board of Elections
274 may appoint election officers (including an inspector) when needed to administer elections. In the absence
275 of the appointment of election officers, members of the Board of Elections must act as election officers,
276 and the Board of Elections must designate one of the board members as the inspector.

277 8.4 Board Members are the sole and final judges of the conduct of the election and of the legality
278 of the votes offered. The Board of Elections keeps a list of all voters voting at an election. The Board of
279 Elections has power to subpoena persons and officers of the Town and books, records, and papers relative
280 to the determination of the qualifications of voters and the legality of any vote or votes offered.

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

283 9. Appointment of Town Officers; Officer Duties; Bondedness

284 9.1 Appointment of Town Officers. Within a reasonable time after the election, the
285 Commissioners, by majority vote, shall must appoint a President, Vice President, Treasurer, Town
286 Secretary, Land Use Administrator, Town Clerk, Town Solicitor, Public Works/Building Inspector, and
287 such other officers, employees, and agents of the town which as they may deem necessary and proper for
288 the appropriate management of the Town. The President, Vice President, and Treasurer must shall be

289 appointed from among the Commissioners. Other members of the Commission may serve as appointive
290 officers of the Town of Hartly. Each such officer shall serve for a term of one year, and until his successor
291 has been duly appointed and qualified; ~~however, the Town Solicitor shall be appointed for an indefinite~~
292 ~~term and shall be removable at the pleasure of the members of the Commission either with or without due~~
293 ~~cause stated.~~

294 9.2. Duties of President. The President has the following duties:

295 9.2.1 Presides at all Commission meetings and sees that the laws, ordinances, rules, and
296 regulations of the Town are faithfully executed;

297 9.2.2 Is counted as a member of the Commission and votes on resolutions, motions and
298 ordinances;

299 9.2.3 Administers oaths and affirmations;

300 9.2.4 Appoints all committees, subject to confirmation by the Commission;

301 9.2.5 Is recognized as the head of the Town of Hartly; and

302 9.2.6 May act on behalf of the Town, without prior Commission approval, in the event of
303 some sudden emergency requiring prompt action in order to protect the public health, safety, and welfare
304 of the Town, its residents and property owners. If reasonably possible, the President should notify each
305 Commissioner, in writing, by U.S. mail, personal delivery, or email of the action so taken within forty-
306 eight (48) hours. Any action taken by the President under the powers vested in the President under this
307 section are as good as the act of the entire Commission, provided that the Commission may at a regular or
308 special meeting held within fifteen (15) days of the President's action, cancel the further implementation
309 of any such action not yet completed and notify any persons or legal entities affected.

310 9.3 Duties of Vice President. The Vice President performs those duties as assigned by the
311 President or by ordinance or resolution adopted by the Commission. If the President is incapacitated from
312 acting by reason of absence, death, or disability, or for any other cause whatsoever, then all powers and
313 duties conferred and imposed upon the President by this Act, or any other law or any resolution or
314 ordinance now or thereafter adopted or enacted by the Commission, are to be exercised and performed by
315 the Vice President during such period of incapacity.

316 9.4 Duties of Secretary. The Secretary has general supervision of the Town's records and
317 documents. The Secretary must cause to be kept a true and faithful record of the proceedings of the Town
318 Commission. During the temporary absence or disability of the President and Vice President, the
319 Secretary acts as President and while so acting, is vested with all the powers, duties, and authority of the
320 President. The Secretary also has such other duties as directed by ordinance or resolution of the Town
321 Commission.

322 9.5 Duties of the Treasurer. The Treasurer has custody and supervision of all monies and
323 financial records belonging to the Town. The Treasurer is responsible for the following:

324 9.5.1 The disbursement of all monies and control over all expenditures to assure budget
325 appropriations are not exceeded;

326 9.5.2 Maintaining a general accounting system for the town in the form required by the
327 Commission and in accordance State Law;

328 9.5.3 Submitting at the end of each fiscal year, and at such other times as the Commission
329 may require, a complete financial report to the Commission;

330 9.5.4 Ascertaining that all taxable property within town jurisdiction is assessed for
331 taxation;

332 9.5.5 Collecting all taxes, special assessments, licenses, fees, liens, and all other
333 revenues, including utility revenues, and all other revenues for whose collection the Town of
334 Hartly is responsible;

335 9.5.6 Maintaining custody of all public monies, belonging to or under control of the
336 Town of Hartly, including maintaining custody of all bonds and notes of the Town of Hartly; and

337 9.5.7 Doing such other things as the President and Commission may require or as may be
338 required elsewhere in this Charter.

339 9.6 Duties of Land Use Administrator. The Land Use Administrator is responsible for the
340 following:

341 9.6.1 Maintaining and regulating adherence to the Town of Hartly Comprehensive Land
342 Use Plan and Zoning Ordinance;

343 9.6.2 Issuing town permits, collecting fees, and monitoring adherence to said permits;

344 9.6.3 Coordinating and overseeing contractual agreements and partnerships with other
345 government bodies or organizations; and

346 9.6.4 Such other things as the President and Commission may require or as may be
347 required elsewhere in this Charter.

348 9.7 Duties of Town Solicitor. The Commissioners, by majority vote, must select and appoint a
349 town solicitor for an indefinite term who is removable at the pleasure of the members of the Commission
350 either with or without due cause stated. The town solicitor must be a member in good standing of the Bar
351 of the State of Delaware. It is the solicitor's duty to give legal advice to the Commission and other
352 officers of the Town, and to perform other legal services as may be required by the Commissioners.

353 9.8 Police Force. The Town Commission may establish and fund a municipal police force,
354 consisting of one or more part-time or full-time police officers, and may employ such personnel as
355 necessary to fill those positions within the police force as authorized and funded by the Commission.

356 9.8.1 All police officers with the authority to carry firearms and to make arrests with or
357 without an arrest warrant must meet such standards and hold such certifications as required by
358 and in accordance with state law.

359 9.8.2 Each police officer is vested with all power and authority, within the Town limits,
360 and within one mile of said limits, of a State Peace Officer. They shall be conservators of the
361 peace and shall suppress all acts of violence and enforce all laws relating to the safety and
362 protection of persons and property.

363 9.8.3 The police officers are responsible for preserving peace and order and enforcing all
364 ordinances enacted by the Town Commission within the limits of the Town. The police officers
365 have the authority to enforce all criminal and motor vehicle laws enacted by the State of
366 Delaware both within the limits of the Town and within one mile of the limits of the Town.

367 9.8.4 The police officers have the power to issue summons, to arrest pursuant to a warrant
368 issued by any court of competent jurisdiction, and to arrest without a warrant upon view of any
369 violation of state law or of any ordinance of the Town relating to peace and good order. The
370 police force may execute all warrants issued by any court of competent jurisdiction directed to
371 such officers. In the case of a pursuit of an offender, the power and authority of the police force
372 may extend outside the territorial limits of the Town to any part of the State.

373 9.9 Police Chief. The Commission may appoint a Chief of Police to serve at the direction of the
374 Commission, who may be dismissed, demoted, or otherwise removed by the Commission in accordance
375 with Chapter 93 of Title 11 of the Delaware Code, as amended, and any future corresponding provisions
376 of law. The Chief of Police is responsible for the operational control of the daily routine and
377 responsibilities of the police force. The authority of the Chief of Police is subordinate and answerable to
378 the President and the Commission. The Commission may elect to not renew a Chief of Police's
379 employment contract without a finding of just cause or holding a hearing under Chapter 93 of Title 11 of
380 the Delaware Code, as amended, and any future corresponding provisions of law. In the event that the
381 police force consists of only one police officer, that officer shall be classified as the Chief of Police.

382 9.10 Auditor. An independent auditor is to be appointed annually by the Town Commission to
383 audit the accounts of the Town and all of its officers whose duty involves the collection, custody and
384 payment of the moneys of the Town. The auditor must, on or before the date set by the Town
385 Commission, annually make and deliver a detailed report of any and all accounts, records, and books

386 examined and audited, which report shall be under the auditor's hand and seal. The auditor, in performing
387 the auditor's duties, may access all records and accounts of the offices of the Town Commission, and the
388 auditor is hereby authorized and empowered to employ such clerks as in the auditor's judgment may be
389 necessary in the proper performance of the auditor's duties.

390 9.11 Compensation. The Commission is to establish the salaries and compensation of employees,
391 officers and agents of the Town and the time and manner of payment, which salaries or compensations
392 may not be increased without a majority vote of the Commission.

393 9.12 Bondedness. The Town Commission may, at the Town's expense, require any Town officer,
394 agent, or employee to be bonded by a commercial bonding company in such amount and according to
395 such terms as deemed necessary and appropriate by the Town Commission.

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

398 10. Official Oath of Office

399 ~~The President, the Treasurer, the Town Clerk, the Town Solicitor, Public Works/Building Inspector and~~
400 ~~the Commissioners~~ The President, Vice-President, Treasurer, Secretary, Land Use Administrator, and
401 Commissioners shall severally be sworn or affirmed to the faithful and impartial performance of their
402 respective duties and undertakings according to the best of their skill and judgement. The said
403 Commissioners may qualify each other and the several officers appointed by them, and any and all other
404 persons when necessary, by administering a proper oath or affirmation suited to the case. The certificates
405 of such qualifications shall, after being duly administered as aforesaid, be recorded in a Town book
406 procured by the Commissioners for that and other purposes, stating the names, time and for what
407 purposes such persons are so qualified, and shall be subscribed by the person administering such oath or
408 affirmation, and the same shall be evidence in all cases.

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

411 ~~(o) May borrow money in the name of the Town for any proper municipal purpose and in order to~~
412 ~~secure the payment of the same to issue bonds or other forms or kinds of certificate or certificates of~~
413 ~~indebtedness, pledging the full faith and credit of the Town or such other security or securities as the~~
414 ~~Commissioners shall select for the payment of the principal thereof and the interest due thereon, all of~~
415 ~~which bonds or other kinds or forms of certificates of indebtedness issued by the Town shall be exempt~~
416 ~~from all state, county or municipal taxes.~~ May impose, upon new development or construction or upon
417 first time occupancy of new construction, such "impact fees" as are reasonably and proportionally
418 calculated to recover the cost of installing, enlarging, improving, or expanding public or municipal

419 improvements which have a rational nexus to such new construction; and/or to contribute to the costs of
420 operations of those volunteer fire companies and/or ambulance or paramedic companies providing
421 services within the Town.

422 (p) May borrow money in the name of the Town for any proper municipal purpose, and in order
423 to secure the payment of the same, to issue bonds or other forms or kinds of certificate or certificates of
424 indebtedness, pledging the full faith and credit of the Town or such other security or securities as the
425 Commissioners select for the payment of the principal thereof and the interest due thereon, all of which
426 bonds or other kinds or forms of certificates of indebtedness issued by the Town are to be exempt from all
427 state, county or municipal taxes. The Commissioners may borrow ~~May borrow money in anticipation of~~
428 ~~revenues~~ on the full faith and credit of the Town of Hartly such sum or sums not exceeding the collective
429 amount of Twenty-Five Thousand Dollars (\$25,000) for all such loans ~~Ten Thousand Dollars~~
430 ~~(\$10,000.00) in any one year when,~~ in the opinion of a majority of the Commissioners of the Town of
431 Hartly, the needs of the Town require it. ~~However, the~~ The Commissioners may borrow on the full faith
432 and credit of the Town sums in excess of Twenty-Five Thousand Dollars (\$25,000) ~~Ten Thousand~~
433 ~~Dollars (\$10,000.00) but not exceeding Two Hundred Thousand Dollars (\$200,000.00)~~ Five Hundred
434 Thousand Dollars (\$500,000) if such borrowing is approved by a majority referendum vote of the
435 ~~qualified voters of the Town of Hartly~~ qualified to vote in municipal elections pursuant to Section 5.6.
436 Notice of the holding of such referendum election ~~shall~~ must be authorized by resolution of the
437 Commissioners, published ~~once a week, for at least two (2) consecutive weeks in one~~ in a newspaper of
438 general circulation in the Town of Hartly at least 15 days prior to the date of the referendum. Such notice
439 ~~shall~~ must set out in summary form the amount and purposes of such borrowing, the date and place of
440 holding the referendum election and the hours the polls will be open. Any sum so borrowed ~~shall~~ must be
441 secured by promissory notes of the Town of Hartly, duly authorized by resolution adopted by the
442 Commissioners of the Town of Hartly, signed by the President of the Commission, and attested by the
443 Secretary of the Commission with the corporate seal affixed, and no member of the Commission shall be
444 liable for the payment of such notes because it is signed by them as officers of the Town and is authorized
445 by the resolution of the Commissioners; provided however, that the total sum outstanding at any one time
446 for all loans shall not exceed Five Hundred Thousand Dollars (\$500,000) ~~Two Hundred Thousand Dollars~~
447 ~~(\$200,000.00), and provide further that such ad valorem taxes shall be levied as are necessary to pay the~~
448 principal or the interest on said notes as is required without regard to any other limitation concerning the
449 maximum rate of the taxation and such notes and the interest thereon shall be exempt from all taxation by
450 the State of Delaware or by any political subdivision, agency or subdivision thereof.

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

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

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

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

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

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

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

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

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

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

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

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

492 13. Commission Procedure; Meetings

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

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

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

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

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

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

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

515 ~~(g) Preliminary discussions on site acquisitions for any publicly funded capital improvements.~~

516 In addition, the general subject matter under consideration at the executive session shall be expressed in
517 the motion calling for such session, and final action thereon shall not be taken by the Commission until
518 the matter is placed on the agenda.

519 ~~Executive sessions may be held only for the discussion of public business, and all voting on public~~
520 ~~business must be made at a public meeting and the results of the vote made public, unless disclosure of~~
521 ~~the existence or results of the vote would disclose information properly the subject of an executive session~~
522 ~~pursuant to subsections (a)-(g) of this Section.~~

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

525 14. Rules and Journal

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

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

531 18. Town Budget

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

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

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

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

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

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

547 (4) (1) An itemized statement of all other estimated expenses to be incurred in the affairs of the
548 Town for the ensuing fiscal year;

549 (5) ~~(2)~~ A statement of the amount required for interest on the bonded debt, the amount necessary
550 to pay any bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking
551 Funds"; and

552 ~~(6)~~ (3) An estimate of the amount of money to be received from taxes, assessments, and all other
553 anticipated income of the Town from any source or sources whatsoever.

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

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

559 20. Town Assessment

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

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

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

577 21. Assessment Publicly Posted

578 A true copy of the assessment, as approved by the Commissioners, or as many copies as are
579 necessary, shall be displayed at a public place for the inspection of all residents. Notice that such copy has
580 been made shall be given by the said Commissioners or the Treasurer, ~~and posted in two of the most~~
581 public places in said Town by posting notice in at least one public place in Town and on any website of

582 the Town at least ten days previous to the day on which the Commission shall sit together to hear and
583 determine assessment appeals. The notice shall state the date, time and place of the assessment appeals
584 meeting.

585 22. Assessment Appeal Meeting

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

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

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

599 26. Collection and Tax Liens

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

604 26.1 The Treasurer is to proceed to collect those amounts on the assessment list immediately after
605 receiving the assessment list from the Commission.

606 26.2 All taxes, charges, costs, and assessments levied on real estate under authority of this
607 Charter shall be and continue as a lien against the property assessed for a period of ~~five~~ ten (10) years
608 from the date prescribed herein for the delivery of the assessment list to the Treasurer, provided that if the
609 real estate remains the property of the person or legal entity who was the owner at the time it was so
610 assessed, the lien will continue until the same is collected in full. Such lien may be extended in the same
611 manner as provided by law for the extension of tax liens for Kent County taxes. In addition such lien shall
612 have preference and priority over all other liens of record on such real estate created or suffered by the
613 said taxable, although such other lien or liens be of a date prior to the time of the attaching of the Town
614 lien for taxes.

615 26.3 In the collection of delinquent taxes (including any and all charges, costs, or other
616 assessments owed to the Town and added to the assessment list pursuant to Section 20), the Treasurer has
617 all of the same powers, remedies, and authority, including the monition method of the collection of taxes,
618 as conferred by Title 9 of the Delaware Code, as amended, and any future corresponding provisions of
619 law, upon those individuals and/or departments authorized to collect delinquent taxes in Kent County.
620 Before instituting any legal action for the collection of taxes, written notice of the amount due must be
621 sent to the taxable at the taxable's last known address.

622 26.4 In effecting a collection of any delinquent tax or any other charges, costs, or assessments due
623 to the town and added to the tax assessment list, the Town may recover the costs of collection, including
624 all court costs, sale costs, reasonable and necessary out-of-pocket expenses, and reasonable attorney's
625 fees incurred by the Town in the collection proceedings. The collection costs constitute a lien on all of the
626 real estate of the taxable, becoming a part of, relating back to, and having the same preference and
627 priority as the lien of the underlying amounts owed.

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

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

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

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

644 If, within three months, any Person ~~shall~~ fails, ~~neglects~~ or refuses to perform any work lawfully
645 ordered by the Commissioners under Section 31, then and in such event the Commissioners are hereby
646 authorized and empowered to contract for said work and repair, and procure the material needed. The

647 ~~Public Works/Building Inspector shall be~~ Land Use Administrator is responsible for supervising any such
648 work or repair ordered by the Commissioners.

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

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

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

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

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

667 36. ~~Sewer System~~ [Reserved]

668 ~~The Commissioners shall have full power and authority to provide, construct, extend, maintain, manage~~
669 ~~and control a sewer system for the health, sanitation and convenience of the inhabitants of the Town, on,~~
670 ~~over, under, or through the streets, alleys, lanes, roadways or other highways, or on, over under or through~~
671 ~~the lands of any person.~~

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

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

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

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

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

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

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

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

706 37. The Commissioners shall have the full jurisdiction and control, within the limits of the Town,
707 of the drainage of all water thereof, together with the right to alter and change the course and direction of
708 any of the natural water courses, runs and rivulets within the limits of the Town and the right to open
709 gutters, surface water and underground drains and sewers within the limits of the Town.

710 37.1 The Commissioners shall also have full power to regulate, maintain, clean and keep the
711 natural water courses, runs and rivulets within the Town limits open and clean and unobstructed.

712 37.2 The Commissioners may, for the purposes hereinbefore mentioned, enter upon private lands
713 and take, condemn and occupy the same in the same manner and by the same condemnation proceedings
714 as prescribed by 10 Del. Laws, c. 61 of 1974, as heretofore or hereafter amended.

715 37.3 The Commissioners shall have the power to enact ordinances, rules and regulations
716 regarding the surface drainage of the Town. ~~The Public Works/Building Inspector shall be~~ Land Use
717 Administrator or the Land Use Administrator's designee is responsible for the daily supervision of the
718 surface drainage of the Town, under the direction of the Commissioners.

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

721 38.1 The Commissioners shall have the power to provide street lighting within the limits of the
722 Town, or any part or portion thereof, when such is determined by the Commissioners to be in the best
723 interest of the Town. Such lighting shall be provided in any manner in which, in the judgment of the
724 Commissioners, may seem best under the circumstances.

725 38.2 ~~The Commissioners shall have the power to~~ may enact ordinances, rules and regulations
726 regarding street lighting within the limits of the town and the amounts if any, to be paid by the beneficial
727 users thereof.

728 38.3 The Town shall recover all the charges, if any, in respect to such street lighting by an action
729 in the name of "The Town of Hartly" before a Justice of the Peace in said county or any court of the State,
730 as circumstances of jurisdiction may require.

731 38.4 ~~The Public Works/Building Inspector shall be~~ Land Use Administrator or the Land Use
732 Administrator's designee is responsible for the daily supervision of the street lighting, under the direction
733 of the Commissioners.

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

737 ~~Section 39. Duties of President~~

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

743 ~~Section 40. Town Solicitor~~

744 The Commissioners, by majority vote, shall select and appoint a town solicitor for an indefinite term who
745 shall be removable at the pleasure of the members of the Commission either with or without due cause
746 stated. The town solicitor shall be a member in good standing of the Bar of the State of Delaware, with
747 offices in Kent County. It shall be his duty to give legal advice to the Commission and other officers of
748 the town and to perform other legal services as may be required of him by the Commission.

749 Section 41. Compensation

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

758 39. Actions or Suits.

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

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

773 Whenever it becomes necessary or expedient for the Town to file any legal action or proceeding
774 to enforce compliance with a Town ordinance and/or to collect an amount due to the Town before any
775 court or administrative agency having jurisdiction thereof, if the Town is the prevailing party in such
776 action, the court or administrative agency having jurisdiction is authorized, in the exercise of its

777 reasonable discretion, to award judgement to the Town in an amount deemed appropriate by it to
778 reimburse the Town for its costs of prosecution, including court costs, expert witness fees, reasonable
779 attorney's fees, and other documented out-of-pocket expenses incurred in connection with such
780 prosecution; provided however, that in order to recover such amounts under this section, the Town must,
781 prior to the filing of such legal action or proceeding, make written demand upon the responsible party for
782 compliance with the ordinance and/or payment of the amount due (as the case may be), which written
783 demand must include notice of this provision of the Town Charter.

784 41. Survival of Powers and Validating Section.

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

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

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

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

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

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

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

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

SYNOPSIS

Section 1 establishes the Town's authority to enact the laws of the Town, its ability to sue and be sued, and its perpetual succession.

Section 2 clarifies that the Town's boundaries are automatically amended when annexations are approved.

Section 3 makes minor clarifications to the Town's annexation procedures.

Section 4 corrects the numbering of the paragraph and authorizes the Town to publish an annexation notice to give interested parties 60 days to challenge an annexation.

Section 5 eliminates the requirement that a candidate for the Town Commission must be current on all taxes. This section establishes the criteria upon which to determine if someone is domiciled in Town. Commissioners may be reimbursed for expenses incurred performing their Town duties, and they may receive a flat fee for attendance at town meetings.

Section 6 establishes procedures for holding municipal elections, including the conduct of elections, election notices, voting procedures, voter qualifications, absentee ballots, uncontested elections, and election results.

Section 7 creates regulations governing the establishment and operation of the Board of Elections.

Section 8 creates the office of Vice President and replaces the office of Town Clerk with Town Secretary and Public Works/Building Inspector with Land Use Administrator. The duties of all the different town officers are outlined in the section, along with the duties of the Town Solicitor and Auditor. This section authorizes the Town to establish a police force, including the hiring of a Police Chief.

Section 9 revises the titles of the Town officers to be consistent with the offices established in Section 8.

Section 10 establishes the Town's ability to impose impact fees on new construction. The Town's borrowing procedures are enhanced to authorize the Town to borrow up to \$25,000 pursuant to a majority vote of the Commission. Amounts borrowed in excess of \$25,000 require a public referendum, and the Town's borrowing limit is set at \$500,000.

Section 11 creates consistency in the use of the title of the Land Use Administrator and eliminates an obsolete code reference.

Section 12 creates consistency in the use of the title of the Land Use Administrator.

Section 13 authorizes the Town to regulate nuisances, including the abatement of such nuisances and the recovery of associated costs. This section authorizes the Town to regulate businesses by granting franchises and imposing taxes, licenses, and permits on businesses.

Section 14 authorizes the Town to establish the Town's regular meeting times by resolution and eliminates justifications for holding closed meetings that have since been codified in Chapter 100 of Title 29 of the Delaware Code.

Section 15 replaces a reference to Town Clerk with Town Secretary.

Section 16 establishes the fiscal year of the Town, clarifies that the Treasurer prepares the initial budget draft, and outlines what the contents of the budget draft should include.

Section 17 clarifies the Town's tax collection procedures by requiring the assessment appeals to be heard annually by June 30 and requiring the assessment list to be posted on the town website and in just one public place. This section clarifies the Town's ability to collect additional amounts owed to the Town as part of the tax collection process.

Section 18 creates a lien of 10 years for all amounts on the assessment lists, which lien can be lengthened if the person against whom the outstanding amounts were assessed still owns the property. The Town is required to send written notice to the property owner prior to initiating collection procedures, and the Town is authorized to use the monition method to collect taxes. The Town may recover all expenses incurred in a collection proceeding.

Section 19 eliminates a reference to the Public Works/Building Inspector, which position is being removed from the charter.

Section 20 replaces a reference to the Public Works/Building Inspector with a reference to the Land Use Administrator.

Section 21 corrects an erroneous section reference.

Section 22 replaces a reference to the Public Works/Building Inspector with a reference to the Land Use Administrator.

Section 23 eliminates the Town's powers pertaining to maintaining a sewer system.

Section 24 replaces a reference to the Public Works/Building Inspector with a reference to the Land Use Administrator and creates numbered sections.

Section 25 replaces a reference to the Public Works/Building Inspector with a reference to the Land Use Administrator and creates numbered sections.

Section 26 eliminates certain sections that have been relocated to other areas in the charter. This section requires anyone intending to bring a lawsuit against the Town to provide the Town with notice of the lawsuit within one year of the occurrence. This section authorizes a court or administrative agency to award the town its costs and legal fees if the Town is the prevailing party in a legal action to enforce an ordinance or recover an amount owed to the Town. All existing ordinances, acts, taxes, powers, and bonds of the Town are to be unimpaired by the charter amendments.

RESOLUTION OF THE TOWN OF HARTLY APPROVING DRAFT LEGISLATION TO AMEND THE TOWN CHARTER AND SENDING THE DRAFT LEGISLATION TO SENATOR LAWSON AND REPRESENTATIVE SPIEGELMAN

WHEREAS, in 1983 the General Assembly adopted "An Act to Re-Incorporate the Town of Hartly"; and

WHEREAS, the Town Council has determined that certain amendments to the Charter enacted by the General Assembly in 1983 are necessary and essential to clarify the authority of the Town in certain areas and to improve the operations of the Town.

NOW THEREFORE, BE IT HEREBY RESOLVED, by the Town Council of the Town of Hartly, a majority thereof concurring in Council duly met, that the Town Charter of the Town of Hartly, Chapter 210, Laws of Delaware, Volume 64, be amended in accordance with the draft bill attached hereto, including any revisions thereto approved by the General Assembly.

BE IT FURTHER RESOLVED that the draft bill approved by the Town Council be sent to Senator David G. Lawson and Representative Jeffrey N. Spiegelman requesting their sponsorship and support of this bill during this session of the General Assembly.

This shall certify that this is a true and correct copy of the Resolution that was duly adopted by the Town Council of the Town of Hartly at its regular meeting held on

February 24th, 2021

Attest:


Megan S. Raughley, Secretary

So certifies:


Mark A. Maguire, President