CITY OF HARRINGTON

RESOLUTION 13-R-04

BE IT HEREBY RESOLVED that the City Council of the City of Harrington requests that the General Assembly of the State of Delaware adopt the document attached hereto as Exhibit A as the Charter of the City of Harrington. A blackline version of the current Charter with the proposed changes is attached hereto as Exhibit B.

BE IT FUTHER RESOLVED that this Resolution was passed by a majority of the City Council of Harrington on this 1st day of April 2013.

Robert E. Price, Jr., Mayor

Attest: _____
Kelly Blanchies, Clerk of Council

April 1, 2013
Date

Exhibit A

City of Harrington

Charter

March 18, 2013

1. Incorporation.

The inhabitants of the City of Harrington within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided, are hereby constituted and declared to be a body politic incorporated in law and equity, by the corporate name of the 'City of Harrington' (hereinafter 'City'), with power to govern themselves by such ordinances, rules, resolutions, and regulations for municipal purposes as they, through their duly-elected officers and agents may deem proper, not in conflict with the provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, or of the United States; and as such shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts. The City shall have perpetual succession and shall succeed to own or possess all property, wherever situated, whether real, personal, or mixed, tangible or intangible, of whatever kind and nature, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed, or enjoyed by the City of Harrington previously incorporated at Chapter 215, Volume 64, Laws of Delaware, as amended.

2. Municipal Boundaries.

The municipal boundaries of the City of Harrington are hereby established and declared as recorded on the official map of record in the Office of the Recorder of Deeds in and for Kent County, Delaware, as presently existing and as hereinafter amended.

3. Annexation of Territory.

The City shall have power to annex any additional contiguous territory adjoining the then-existing corporate limits of the City as hereinbefore set forth or as hereafter extended pursuant to the procedures set forth in this section, and to apply to all such additional territory all laws, ordinances, resolutions, and policies in force in the City so far as they may be locally applicable.

3.1. Initiation of Annexation Proceedings.

3.1.1. As Authorized By General Statute. In addition to any other procedures authorized in this municipal Charter, the City may extend its municipal limits so as to include any portion of territory contiguous to the then-existing corporate limits of the City in accordance with the provisions of 22 Del.C. §101.

3.1.2. By Petition of the Property Owners. Any property owner(s) holding record fee title to real property in territory contiguous to the then existing corporate limits of the City may petition the City Council to annex that certain territory in which they own property. Such petition shall be in writing, duly executed and acknowledged by each petitioner, shall describe with reasonable certainty the territory proposed for annexation, indicate the property owned by each petitioner therein, and state the reasons for the requested annexation. The City Council may, within 90 days following the filing of such petition in the City Office, vote to accept such petition and proceed as hereinafter provided, or to reject such petition. Any petition not so accepted within said 90 days shall be null and void. For purposes of this §§ 3.1.1, 3.1.2, with 3.1.3 'territory contiguous to the then existing corporate limits of the City shall include both real property which, though itself not contiguous to the City's then existing corporate limits, is contiguous to other real property

which is proposed to be included in the annexation, and real property which would be contiguous under § 3.2.8(b).

3.1.2.1. By Petition of All Property Owners. If all of the property owners of the territory contiguous to the then-existing corporate limits of the City, by written petition with the signature of each such petitioner duly acknowledged, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Harrington shall appoint a committee composed of not less than three (3) of the members of the City Council to investigate the possibility of annexation. The petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its finding and conclusions to the Mayor and City Council of Harrington. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Harrington and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the City and to the territory proposed to be annexed, the City Council of Harrington may then pass a second Resolution annexing such territory to the City of Harrington. Such Resolution shall be passed by a majority of the members of the City Council. The passage of said second Resolution shall annex the property into the City and none of the procedures specified in §§ 3.1.3, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4 or 3.2.5 need be followed. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the City or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided as if the annexation were proposed by less than all of the property owners of a territory contiguous to the then limits and territory of the City of Harrington.

3.1.3. By Resolution of the City Council. The City Council may, at any time, adopt a resolution proposing the annexation of any territory contiguous to the City. Such resolution shall describe, with reasonable certainty, the territory proposed to be annexed, state the reasons for the proposed annexation, and establish the date, time and place for the holding of an election as hereinafter provided. If more than one territory is involved in any resolution, elections may be held in more than one of them on the same day, but the elections shall be separate; only the qualified voters and real property owners of a territory shall be counted in the election to determine whether that territory shall be annexed. Upon adoption of such resolution, the City Council shall proceed as hereafter provided.

3.2. Annexation Procedure. Whether annexation is proposed by petition of the property owners or by resolution of the City Council, the following procedure shall be complied with:

3.2.1. Notice. Notice of the election for annexation shall be published in a newspaper of general circulation in the area to be annexed at least ten (10) days prior to the day of the election. The notice shall contain a description of the area to be annexed, the time, place, and date of the election, and the eligibility of those who are entitled to vote. In addition to publication as herein provided, the City Council shall, not less than 10 days prior to the date of such election:

(1) Cause a public notice, containing the full text of the Resolution, to be posted in at least 3 different public places in the City and in at least one place, viewable to the public, in the territory proposed to be annexed; and

(2) Send a copy of such notice, certified mail, to the owners of record of the lands proposed to be included in the annexation at their address as shown on the public tax records. Written notice to one co-owner shall be notice to all.

3.2.2. Those Entitled to Vote.

(a) At such annexation election, any natural person who is a "qualified voter" or an owner of real property in the territory to be annexed shall be entitled to one vote; and each legal entity other than a natural person, (e.g. a corporation, partnership, trust, or association) owning property in its own name in the territory proposed to be annexed, shall be entitled to one vote. For purposes hereof, a "qualified voter" shall mean a bona fide domiciliary of the territory proposed to be annexed who is registered and qualified to vote according to the voter registration lists of the State Department of Elections.

(b) These provisions shall be construed in accordance with the principle of 'one-man, one vote'. Where a voter is entitled to vote by virtue of being both a "qualified voter" and an owner of real property, that voter shall be entitled to only one vote; where a voter is entitled to vote by ownership of two or more parcels of real property, that voter shall be entitled to only one vote. Where real property is held in a life estate, the holders of the life estate shall be deemed to be the sole owners and entitled to vote accordingly. Persons in joint ownership of real property shall be entitled to only one vote.

(c) Any legal entity (other than a natural person) entitled to vote must cast its vote by a duly executed and notarized power of attorney from the legal entity granting the authority to cast its vote to its designated attorney-in-fact. Such Power of Attorney shall be surrendered to the Election Officials who shall file same in the Office of the City. Such Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Annexation Election on behalf of the legal entity granting the power.

3.2.3. Conduct of Annexation Election; Election Officials.

(a) Ballots. The City Council may cause voting machines, electronic voting systems, or paper ballots to be used in the Annexation Election, as permitted or required by law, the form of ballot to be printed as follows:

_____ For the proposed annexation.

_____ Against the proposed annexation.

Any person (including a person acting pursuant to a valid Power of Attorney from a legal entity other than a natural person) who is entitled to vote in the election, but who shall be unable to appear in person, may vote by absentee ballot in accordance with such standards and procedures as established by City ordinance.

(b) Election Officials. The Mayor shall appoint three (3) persons to act as a Board of Special Election for the Annexation Election. One (1) of the said persons so appointed

shall be designated the Presiding Officer. The Board of Special Elections shall be the sole and final judge of the legality of the votes offered at such Annexation Election. It shall keep a true and accurate list of all natural persons and other legal entities voting.

(c) Polling Place. Voting shall be conducted in a public place as designated by the Resolution setting the Annexation Election. The polling place shall be open for not less than two (2) consecutive hours as set by the City Council, on the date set for the Annexation Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

3.2.4. Results of Annexation Election.

A majority of votes cast shall determine the result of the election. Upon the close of the voting, the results shall be publicly announced by the Presiding Officer of the Board of Special Elections. After public announcement of the votes cast, the total votes cast 'For' and the total votes cast 'Against' shall be certified to by the Board of Special Elections and presented to the City Council at its next regular meeting. The City Council at this regular meeting shall approve the votes as certified.

3.2.5. Resolution of Annexation.

(a) If a majority of the votes cast in an election held in a territory proposed to be annexed shall be in favor of the inclusion of that territory, the Council shall thereupon adopt a resolution annexing the said territory and including same within the limits of the City of Harrington. Upon adoption of a resolution of annexation, a copy thereof signed by the Mayor and certified by the Clerk of Council with municipal seal affixed, together with a plot of the area annexed, shall forthwith be filed for record with the Recorder of Deeds of Kent County. The territory so annexed shall be considered to be a part of the City from the moment the last mentioned resolution is adopted by the City Council. Failure to record said resolution, or the plot accompanying same, shall not invalidate the annexation, but such recording may be enforced by writ of mandamus.

3.2.6. Annexing City-Owned Property. Notwithstanding any provisions herein to the contrary, the City by resolution of Council may extend its corporate boundaries without an election, provided, that the said territory to be annexed is owned entirely by the City.

3.2.7. Annexation Agreements. Notwithstanding any provision herein to the contrary, where, pursuant to § 3.1.2.1 of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under § 3.1.2.1 of this Charter, such annexation agreement shall be deemed a material part of the annexation.

3.2.8. Property Owned by the State of Delaware; Property Owned by the City; Highways, Streets, Roads and Alleys; Ponds, Canals, Streams and Other Waters.

(a) Real Property Owned by the State of Delaware. Real property owned by the State of Delaware may be annexed into the City without the State's casting a vote in the Annexation Election, provided the state agency having control and supervision thereof does not notify the City, in writing, of its objection to such annexation within ten (10) days after receiving written notice of the resolution proposing the annexation as provided in § 3.2.1.

(b) Real Property Owned by the City. Real property owned by the City of Harrington may be annexed into the City by ordinance without the necessity of an election.

(c) Highways, Streets, Roads, and Alleys; Ponds, Canals, Streams, and Other Waters. Territory which would otherwise be contiguous with the City's then-existing corporate limits, or with other territory which is itself contiguous with the City's then-existing corporate limits, shall not be deemed non-contiguous merely by the existence of any highway, street, road, alley, pond, canal, stream, or other body of water which passes between or separates them.

3.2.9. Limitations. No action contesting the annexation of any territory under this section shall be brought after the expiration of 60 days from the publication of a notice in a newspaper of general circulation in the City and in the territory annexed, which notice shall contain the following information:

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

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

(c) In addition to publication as herein provided, the City Council shall cause a public notice, containing the information set out in subsections (a) and (b) above (using date of 'posting' for date of "publication"), to be posted in at least three public places in the City and in at least one place, viewable to the public, in the territory proposed to be annexed.

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

4. Powers of the City.

4.1. General. The City shall have and enjoy all the powers possible for a municipal corporation to have under the Constitution and laws of the State of Delaware, as fully and completely as though they were specifically enumerated in this Charter.

4.2. Enumeration of Powers. Not by way of limitation upon the scope of the powers vested in the City Council to exercise all powers delegated by this Charter or general law to the City (except as may expressly appear herein to the contrary), but rather by way of enumeration and example, the City Council is vested by this Charter with (among others) the following powers:

4.2.1. May grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and

conditions, and for such consideration, as the City Council shall deem in the best interest of the municipality, for the use of the present and future streets, highways, lanes, alleys, watercourses, parks, lakes, sidewalks, crosswalks, wharfs, docks, and other public places of the City for the purpose of furnishing heat, light, electric power and energy, gas, water, sanitary sewer, drainage, telephone, telegraph, television, railroad (excepting the railroads or railways engaged in Interstate Commerce), bus, taxi or other transportation carrier or public service to the City, and/or for the purpose of transmitting the same from or through the City to points outside the limits thereof, provided, however, that whenever any state or federal law grants exclusive jurisdiction over any such activity to a state or federal agency, the City shall have no authority inconsistent herewith.

4.2.2. May regulate and control the exercise of any license or franchise mentioned in Section 4.2.1 of this Charter.

4.2.3. May make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules, and By-Laws not contrary to the laws of this State and the United States as the City Council may deem necessary to carry into effect any of the provisions of this Charter or of any other law of the State relating generally to municipal corporations, or which they may deem proper and necessary for the order, protection and good government of the City, the protection and preservation of persons and property, and of the public health and welfare of the City and its inhabitants; provided, however that any Ordinance relating to the public health of the City and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same shall apply not only within the corporate limits of the City but as well to all areas and persons outside the City within one (1) mile from said limits.

4.3. Liberal Construction; Manner of Exercise. The powers of the City under this Charter shall be liberally construed in favor of the City, and the enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise thereof, the City shall have and may exercise any and all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter to specifically enumerate. All powers of the City, whether express or implied, shall be exercised in the manner prescribed by this Charter, or if not prescribed, herein then in the manner provided by ordinance or resolution of the City Council.

4.4. Intergovernmental Cooperation. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more States or civil divisions or agencies thereof, or the United States or any agency thereof, except as prohibited or restricted by the Constitution or laws of the State of Delaware or by this Charter.

5. Governing Body.

5.1. City Council. The government of the City and the exercise of all powers conferred by this Charter (except as otherwise provided herein) shall be vested in and exercised by a Mayor and Council as hereinafter provided.

5.2. Qualifications for Office.

5.2.1. Basic Qualifications. Candidates for the City Council or for the office of Mayor must be at least 18 years of age, have filed a nominating petition in accordance with § 5.4 of this Charter, and shall qualified to vote at the annual City election as provided in § 6.2.

5.2.2. Conviction of Felony or Crime of Moral Turpitude. No person having been convicted of a felony or crime of moral turpitude shall be qualified to be a candidate for office on the City Council or for the office of Mayor. For this reason, complete criminal history shall be researched by proper authorities.

5.2.3. Limitation on Terms. There will be no term limits on a person who holds the Office of Mayor under this Charter. There will be no term limits on a person who holds the Office of Council Person, under this Charter.

5.3. Election Districts. The Council shall be the legislative body of the City composed of six (6) members nominated and elected as herein provided. In order that the members of council shall be distributed over the City, the City shall be divided into six (6) election districts and one of said members of Council shall be a resident of each district. The election districts of the City of Harrington are hereby established and declared as recorded on the official map of record in City Hall. The district boundaries shall be established by the Council so that the districts are nearly equal in population as shown by the most recent federal decennial census. The district boundaries established for municipal elections shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware, at which time the Council shall redistrict the City so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election, which procedure shall be followed by the Council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.

5.3.1. Re-Apportionment; Additional Districts.

(a) The City Council may provide for additional districts and/or rearrange the boundaries of the existing districts as provided herein in the event of annexation or reapportionment, but in no event shall there be less than six districts. In the event additional district(s) are created, there shall be created a vacancy in the office of Councilman for the additional district(s) and Council shall fill such vacancies as herein provided.

(b) For the regular municipal election and for each election thereafter, the City shall be divided into six (6) election districts, the boundaries of which shall be established by City Council so that the districts are nearly equal in population as shown on the current federal decennial census. The district boundaries so established shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware, at which time the City Council shall redistrict the City so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election. Thereafter this procedure shall be followed by the Council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.

(c) In the event that any action is required hereunder to create new election districts and/or reapportion existing election districts, the City Council shall hold at least one public hearing on not less than 10 days public notice stating the date, time, place and purpose of the hearing which public notice shall be: (1) published in a newspaper of general circulation in the City and (2) posted in at least five (5) public places in the City. The City Council shall conduct its review and any proceedings or actions resulting therefrom, so that the boundaries of the new or re-apportioned election districts are finalized by December 31st of the year in which the review was performed. Notice of such new or re-apportioned election districts shall be published in a newspaper of general circulation and posted in five (5) public places in the City.

5.4. Nominations to Be By Petition. The mode of nomination of candidates for the Council and for the office of Mayor shall be by petition signed by the candidate and filed with the Clerk of Council, in the City Hall on or before 4:00 p.m. local time of the first Tuesday of April preceding the next municipal election. Should the first Tuesday of April fall on a legal holiday, the filing date shall be 4:00 p.m. local time on the next working day thereafter. Whenever a petition nominating a person for the office of Mayor or Councilman shall have been filed as above described, the name of such person shall be printed on the ballot for the regular municipal election as a candidate for the office for which the person was nominated, provided, the person possesses the qualifications prescribed by this Charter for a candidate of such office.

5.5. Council to Act as Final Judge. The City Council, by majority vote of its disinterested members, shall be the sole and final judge of the qualifications of its members, and shall interpret and apply the standards set forth in this Charter. If the Clerk of Council preliminarily determines that any candidate may not meet the qualifications for office, he shall notify the Mayor who shall call a special meeting of the City Council to be held not less than ten (10) days prior to the date set for the election, at which the disinterested members of the City Council shall decide the matter. The candidate whose qualifications are at issue shall be notified, in writing by registered mail or personal delivery, of the date, time and place of the hearing, at which he or she may appear and testify. If the City Council determines that the candidate does not meet the qualifications for office, it shall reject his/her nominating petition and his or her name shall not appear on the ballot. In making the determination, only those members of the City Council who are not up for re-election shall be entitled to vote on the question.

5.6. Terms of Office.

5.6.1. Mayor. The Mayor shall be elected by the qualified voters of the City, as defined in § 6.2 of this Charter, of the several election districts, to serve a term of four (4) years.

5.6.2. Members of Council. The members of Council shall be elected for their respective election district by the qualified voters of the City (as defined in § 6.2 of this Charter) residing in the respective election district, to serve a term of three (3) years.

5.7. Continuity in Office. For the purpose of carrying into effect the provisions of this Charter, the Mayor and members of Council now serving shall continue to serve as herein provided until the completion of the terms for which they were elected and/or until their successors are duly elected or appointed.

6. Municipal Elections.

6.1. Date of Regular Municipal Election.

6.1.1. An annual municipal election shall be held on the first Tuesday of May of each year which shall be known as the Regular Municipal Election for the purpose of electing members of Council or the Mayor or both as the case may be to fill expired terms. All other elections that may be held shall be known as Special Municipal Elections.

6.2. Voter Qualifications. Any person shall be qualified to vote who, on the date of the election, is a resident of the City of Harrington, a United States citizen, has attained eighteen (18) years of age, and is registered under the Kent County Voter Registration ordinances. A 'resident' shall mean any person who has been residing in the City prior to the date of the election.

6.3. Voter Registration. The City Council may enact such ordinances concerning the registration of qualified voters for municipal elections in the City as it deems reasonable or necessary to provide for the orderly and efficient conduct of municipal elections; provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor shall any such ordinances unduly impair the right to vote. Nothing herein shall be construed to prohibit the City from using the voter registration lists of the Department of Elections for Kent County in lieu of establishing its own registration procedures.

6.4. Uncontested Elections. Where there is only one official candidate for each office, if none of the official candidates has a formal opponent on the day of election, the official candidates may assume office without the holding of a formal election.

6.5. Date, Time, Place, Notice and Manner of Conducting.

6.5.1. Date, Time, and Place. The regular municipal election shall be held on the first Tuesday of May at such time and place, within the City, as shall be determined by the City Council. The polls shall remain open for at least a seven hour period to be determined by the City Council.

6.5.2. Notice of Elections. Notice of the regular municipal election shall be given by posting notice thereof in at least three public places in the City not less than ten (10) days before the day of such election and by publishing notice in a newspaper of general circulation in the City at least ten (10) days before the day for the election. Such notices shall state the date, time, and place of the election as well as a description of the positions to be filled.

6.6. Manner of Conducting Elections.

6.6.1. Voting Machines, Electronic Voting System. Elections shall be by voting machine, or electronic voting system as the City Council shall determine; provided however that voting machines or electronic voting systems shall be used if required for municipal elections by general statute.

6.6.2. Absentee Voting. The City Council may, (but shall not be required to), by ordinance, provide for a qualified voter (duly registered if required by ordinance) who shall be unable to appear in person, to cast his or her ballot at any municipal election by absentee ballot.

6.6.3. Rules Governing Conduct of Elections. The City Council may, by resolution, adopt such rules and regulations, not inconsistent with the provisions of this Charter or with applicable state or federal law, governing the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt.

6.6.4. Election Board. Every election shall be held under the supervision of an Election Board.

6.6.5. Election Results. When the polls are closed, the Election Board shall publicly count the votes and shall certify the results of the election to each of the persons elected and to the Council. The candidate for the office of Mayor who receives the highest number of votes cast for that office shall be declared to be elected Mayor, and the candidate for the office of Councilmember from each district who receives the highest number of votes cast for that office shall be declared to be elected to that office and they shall continue in office during the terms for which they are chosen, or until their successors are duly elected and/or appointed and qualified.

6.6.6. Ties, Challenges. In the event of a tie vote for any office, the Election Board shall determine such tie by lot.

6.6.7. Preservation of Ballots and Records. All ballots cast and all records of the election kept by the Election Board shall be preserved in the custody of the Election Board for a period of fifteen (15) days, unless an appeal is filed in a court of appropriate jurisdiction.

7. Organization of City Council.

7.1. Organizational Meeting. An organizational meeting of the City Council shall be held at the first regular City Council meeting held in June of the year following the annual City election. Such meeting shall be held at the usual place for holding regular meetings. The newly elected Council members shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, a Justice of the Peace, or by one of the holdover Council members.

7.2. Officers. The Mayor and members of the City Council shall be elected by the qualified voters of the City. All other officers shall be appointed offices, such appointments to be made by the City Council, as provided in § 11 of this Charter. At the organizational meeting, the City Council members shall elect from among their own members a Vice Mayor who shall serve in that position for a term of one year or until the organizational meeting the June following the next succeeding election.

7.2.1. Mayor. It shall be the duty of the Mayor to preside at all meetings of the City Council, to serve as the head of the City government for all ceremonial purposes or for purposes of military law; to appoint such standing or ad hoc committees as he deems necessary or appropriate, such appointments to be subject to council confirmation, and to perform such other duties as may be prescribed by any ordinance or resolution adopted by the City Council. The Mayor shall have no vote on any matter except in case of a tie. For purposes of establishing a quorum, the Mayor shall not be counted, but only members of the Council. The Mayor shall be authorized to act on behalf of the City, without prior Council approval, in the event of some sudden emergency requiring immediate action in order to protect the public health, safety, and welfare of the City, its residents and property owners. A 'sudden

emergency' for purposes of this section shall include, by way of example and not in limitation, a major fire or conflagration, significant and dangerous flooding or serious storm threatening significant damage, a major civil disturbance, or a toxic spill. A "sudden emergency" shall also include any emergency situation as declared by any County, State, or Federal agency having jurisdiction over the City where the scope of the emergency so declared includes the City of Harrington and it is not reasonably possible to convene a special meeting of the Council. If reasonably possible, the Mayor shall notify each Council member, in writing, of the action so taken by him within 24 hours. Notice shall be complete upon depositing such notice in the U.S. Mail, proper postage affixed, to each Council member at his or her last known address or upon personal delivery. Any action taken by the Mayor under the powers vested in him under this section shall be as good as the act of the entire Council, provided that the Council may at any regular or special meeting held within 15 days of the Mayor's action, cancel the further implementation of any such action not yet completed and notify any persons or legal entities thereby affected.

7.2.2. Vice Mayor. The Vice Mayor shall act as Mayor during the absence or disability of the Mayor, and shall perform such other duties as may be assigned to him by the Mayor or by ordinance or resolution adopted by the City Council.

7.2.3. Treasurer. The City Council shall appoint the Treasurer as the City Treasurer who shall be custodian of all City funds and shall authorize deposit into federally-insured banking institutions located in the City as necessary. The Treasurer shall pay no money except upon warrant or check countersigned by the Mayor, or in the Mayor's absence, by the Vice-Mayor. The Treasurer shall be responsible for seeing that a true and detailed account of all monies received by the City is maintained on a current basis. The books and accounts of the City shall at all times be open to inspection by the Council or Mayor. The City Treasurer shall make such reports and at such times as the Council may direct. The City Treasurer shall be required to give bond in such amount and in such form with such surety as the Council shall determine and approve the cost of said bond to be paid by the City.

7.3. Succession of Authority. In the event that the Mayor is unavailable or incapable of assuming his responsibilities in a sudden emergency (as defined in § 7.2.1) the emergency powers therein vested in the Mayor shall devolve upon the following officers and officials of the City in the following order of sequence: (1) Vice Mayor, (2) Each of the remaining Council members in order of their total number of years served on Council, (3) the City Manager, (4) the Chief of Police, (5) the Clerk of the Council.

7.4. Prohibitions.

7.4.1. Holding Other Office. Except where authorized by law, no member of the City Council, nor the Mayor, shall hold any other City Office or City employment during the term for which he was elected to Council. No councilmember or Mayor may apply for any compensated position with the City of Harrington unless he/she has resigned from the elected position prior to submitting application.

7.4.2. Contracts with the City. It shall be unlawful for the Council or the City's officers, agents, or employees, to make or enter into any contract for materials, supplies, work or labor for the use and benefit of the City with any member of Council or the Mayor, or with any partnership in which any member of Council, or the Mayor, is a partner, or with any

corporation in which any member of Council, or the Mayor, is a director or has a controlling interest, except with the unanimous consent of the disinterested Council members, and any such contract shall be absolutely null and void without such unanimous consent.

7.4.3. Restrictions Related to Personal or Private Interest.

(a) A Mayor or Council Member who has a personal or private interest in any measure pending in the City of Harrington shall disclose the fact to the Council, which he or she is a member, and shall not participate in the debate nor vote thereon; provided that upon the request of any other member of the Council or Mayor, as the case may be, a Council Member or Mayor who has such a personal or private interest may nevertheless respond to questions concerning any such measure. A personal or private interest in a measure is an interest which tends to impair a Council Member's or Mayor's independence of judgment in the performance of his or her Council duties with respect to that measure.

(b) A Council Member or Mayor has an interest which tends to impair his or her independence of judgment in the performance of his or her Council duties with regard to any measure when: (1) the enactment or defeat of the measure would result in a financial benefit or detriment to accrue to the Council Member, Mayor or a close relative to a greater extent that such benefit or detriment would accrue to others who are members of the same class or group of persons, or (2) the Council Member or Mayor or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by a measure to a lesser or greater extent than like enterprises or other interests in the same enterprise.

7.5. Vacancies, Forfeiture of Office.

7.5.1. Vacancies. The office of Mayor or City Councilmember shall become vacant upon death, resignation, lawful removal from, or forfeiture of office.

7.5.2. Forfeiture Proceedings. A forfeiture of his office shall occur when the Mayor or any Councilmember:

(a) lacks, at any time during his or her term of office, any qualification for the office prescribed by this Charter or by law.

(b) willfully violates any express and substantive prohibition in this Charter.

(c) is convicted of a felony or any crime involving moral turpitude anywhere in the United States.

(d) fails to attend three consecutive regular council meetings without being excused by Council.

7.5.3. Determination Concerning Forfeiture. Where the conditions set forth in 7.5.2 (c) or (d) occur, forfeiture shall be automatic. Where the conditions set forth in 7.5.2 (a) or (b) are alleged to have occurred, a determination concerning such alleged forfeiture shall be made by the Council, but the affected party shall not have a vote in any such decision. Such deliberations may be held in executive session and if the Council determines by a

unanimous vote of the Council members entitled to vote on the question, that forfeiture has occurred, it shall, within forty-eight hours of that determination, provide written notice thereof to the affected Council member, stating specific reasons. The affected party shall then have ten days in which to make a written demand for a public hearing before the Council, to be held within twenty days of the written demand, at which hearing he or she may appear with the assistance of counsel and present evidence to the relevant issues. Thereafter, the Council shall hear any other relevant evidence and vote again on the question of forfeiture; and if a determination of forfeiture is again made by a unanimous vote by secret ballot of the Council members entitled to vote on the question, that decision, with a statement of the reasons therefor, shall be placed in the minutes and shall be final. Written notice of the decision shall be sent by certified mail, return receipt requested, within 48 hours of the decision.

7.5.4. Failure to Request Hearing as a Bar. Failure of the affected person to make written demand for a public hearing as hereinabove stated shall be an absolute bar to his right to challenge the Council's decision. Public hearing may be waived by the affected Council member. During, or in connection with, any such proceedings, the Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done if requested in writing by the affected person.

7.6. Filling Vacancies on Council. In case of a vacancy in the office of Mayor or on the Council, the remaining Council members shall elect another qualified person to serve for the remainder of that vacant seat's term; provided, however, that if a vacancy shall occur in the office of Council member, the unexpired term of which shall be for more than one (1) year, the Council shall elect another qualified person to serve only until the next annual election, at which time there shall be elected a suitable person to fill the remainder of the term of said office.

7.7. Compensation. The Council shall determine the compensation per meeting and emoluments of the Mayor and Council by ordinance or policy. Members of Council, the Mayor and appointed officials shall receive reimbursements for actual and necessary expenses incurred when on official business as prescribed by ordinance or policy.

7.8. Reimbursement of Expenses. The Mayor and members of Council shall be reimbursed for their actual and necessary expenses while on City business which has been duly authorized by motion, resolution or order of Council.

8. Annual Report to the Electors of the City.

At the organizational meeting of the City Council held in June of each year, the City Council shall present an annual report concerning the business of the City for the past year, as well as plans for improvements contemplated to be made during the succeeding year. Due notice of the time and place of the presentation of the annual report shall be published in a newspaper of general circulation within the City at least ten (10) days prior thereto. The meeting shall be organized and conducted by the Mayor or his appointee and the Clerk of Council. No action taken at this meeting shall be binding on the Mayor and Council, the intent of this meeting being that it be a means of informing the electors of the business affairs of the City.

9. Meetings.

9.1. Regular Meetings. The City Council shall meet regularly not less than once each month, during the year. The time and place of each regular meeting shall be set by Council each year at their organizational meeting, but Council shall not hereby be prohibited from rescheduling such meetings from time to time during the year as need arises.

9.2. Special Meeting; Waiver of Notice. Special meetings shall be called by the Council Clerk upon the request of the Mayor, or upon the request of any four members of Council, stating the day, hour and place of the special meeting requested and the subject or subjects proposed to be considered thereat. Such notice to Council must be deposited in the U.S. mail in the main post office in the City at least 24 hours prior to the time set for such special meeting; provided, however, that a waiver of such notice, (written, telegraphic, facsimile, or recorded telephonic message) by all members of Council prior to or immediately upon the convening of such special meeting shall make the 24 hour written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time and for any purpose named in such waiver, if the waiver so states. Subject to the scope of the notice, the City Council shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Council has at a regular meeting.

9.3. Adjourned Meetings. The City Council may adjourn its meetings from time to time, stating the date, place, and time to which such meeting shall be reconvened.

9.4. Place of Meetings. In the absence of emergency or other compelling circumstances, no action may be taken by the City Council except at a duly convened regular or special meeting, held in the City of Harrington, Delaware.

10. Manner of Acting.

10.1. Rules of Procedure, Record of Proceedings. The City Council may determine its own rules of procedure and order of business. It shall keep a record of its proceedings. The yeas and nays shall be taken upon the passage of every ordinance and resolution and entered, together with the text of the ordinance or resolution upon the Journal of the proceedings of the Council. Any member of the Council who is present at a meeting and who does not vote or who abstains from voting on any ordinance, resolution, or order shall state his reasons for not voting or for abstaining. The Journal shall be deemed conclusive evidence of the facts stated herein.

10.2. Ordinances. The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated. In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which: (a) Adopt, repeal or amend an administrative code, or establish or abolish any City department, office, or agency; (b) Provide for a fine or other penalty or establish a rule of regulation for violation of which a fine or other penalty may

be imposed; (c) Grant, renew or extend a franchise; (d) Amend or repeal any ordinance previously adopted. Acts other than those referred to in the preceding may be done either by ordinance or by resolution. Every ordinance shall be introduced in writing. Vote on any ordinance may be by voice vote or written vote and the vote of each Council member on any ordinance shall be entered on the record.

10.3. Quorum. A majority of the members elected to the City Council shall be physically present in order to constitute a quorum to conduct business, but if a lesser number be present at any regular or properly called special meeting, they may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by the majority of the entire Council.

10.4. Vote Necessary to Carry Action. In the performance of their duties, the acts, doings, and determinations of a majority of the City Council members present at any duly called meeting at which a quorum is present shall be as good as the acts, doings, and determinations of all the members of the Council.

11. Appointed Officers.

11.1. City Manager.

11.1.1. Appointment, Term. The Council shall appoint a City Manager who shall be the chief administrative officer of the City. He/she shall be appointed solely on the basis of his/her professional, executive, and administrative qualifications. He/she need not, when appointed, be a resident of the City or of the State of Delaware, but shall, within three (3) months of his/her employment, become domiciled within such radius of the City Hall as reasonably determined by Council at the time of his/her appointment. No member of Council shall, during the term for which elected, be appointed to act as City Manager. The City Manager shall be appointed for an indefinite term, but shall be removable at the pleasure of the Council. Before the City Manager may be removed he/she shall be given a written statement of the reasons alleged for his/her removal and shall be granted, if he/she demands in writing filed with Clerk of Council within five days after receiving the written notice of his removal, the right to be heard publicly thereon at a meeting of council, but pending and during such hearing the Council may suspend him/her from office under such terms and/or conditions as specified by Council. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council. In case of the absence, disability, or suspension of the City Manager, the Council may designate some other competent person to perform the duties of the office during such absence, disability or suspension. Any reference in any previously enacted ordinance to City Manager shall be construed as referring to the City Manager.

11.1.2. Vacancy from Office. In the event of a vacancy in the office of City Manager, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges and powers theretofore reposed in his predecessor or predecessors in office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.

11.1.3. Responsibilities Relating to City Employees. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his/her charge, and to that end, except as otherwise provided herein: He/she shall seek applications, interview applicants, select and recommend the applicant he/she feels most qualified for a position in the administrative services of the affairs of the City under his/her charge and present such application along with his/her recommendations on all applicants to the City Council or its designated Committee for their review and action. All such appointments shall be without definite term.

11.1.4. Removal of City Employees. Employees under the authority of the City Manager may be removed by him/her at any time. The employees shall have the right to appeal such dismissal per the Employee Handbook Grievance Procedure.

11.1.5. Council Not To Interfere. Except for the purposes of inquiry, the Council and its members shall deal with that portion of the administrative service for which the City Manager is responsible solely through the City Manager, and neither Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately; provided, however, in the event of any emergency, (i.e. storms, water leaks, sewer blockages, etc.), wherein the City Manager is not available or he/she requests assistance, the Mayor or any Council member may take charge and in so doing may give direct orders to any employee of the City until such time that the emergency situation is abated and whatever clean-up work necessitated completed.

11.1.6. Responsibility to Council. It shall be the duty of the City Manager to supervise the administration of the affairs of the City under his charge; to make such recommendations to the Council concerning the affairs of the City as may seem to him desirable, to keep Council advised of the future needs of the City, to prepare and submit to Council such reports as may be required by that body, and to perform such other duties as may be prescribed by this Charter or required of him/her by ordinances or resolution of Council.

11.1.7. Duties of City Manager. The City Manager shall have charge of the water and sewer systems of the City. He/she shall have charge of the supervision of the streets, gutters, curbs, and sidewalks of the City and of all work relating thereto. He/she shall have charge of the administration of all provisions of this Charter and ordinances and regulations of the Council relating to affairs of the City, when not otherwise provided for by this Charter or by ordinance or resolution of Council. He/she shall be ex-officio Collector of Taxes for the City. It shall be his/her duty to collect all water rents and fees for the tapping of water mains and sewers and all City revenues from any source whatsoever. He/she shall make such reports and at such times as the Council shall direct.

11.1.8. Bond. The Council may require the City Manager to give bond in such amount and such form and with such surety as the Council shall approve, said Bond to be paid by the City.

11.2. Clerk of Council. The Council Clerk shall keep a record of the proceedings of the Council and perform such other duties and have such powers as may be prescribed by ordinance or by this Charter. The City Manager shall not serve as Clerk of Council.

11.3. City Solicitor. At the annual meeting, the Council shall appoint a City Solicitor for the term of one year or until his successor has been duly chosen and qualified. The City Solicitor

may be removed during his term by a vote of three-fourths of the members elected to Council. The City Solicitor shall be a member in good standing of the Bar of the State of Delaware who shall have offices in Kent County and shall have practiced in the State of Delaware for at least three (3) years. He shall be the Chief Legal Advisor of and Attorney for the City. It shall be his duty, either personally (or by such assistants as he may designate), to attend meetings of Council as prescribed by Council, to give advice in writing and to perform other legal services as may be required of him by Council, the City Manager, or other designated officers of the City.

11.4. Alderman. (position deleted)

11.4.1. Jurisdiction. Jurisdiction over civil misdemeanors and fines is hereby remanded to J.P. Court.

11.5. Police Force.

11.5.1. Chief of Police; Police Officers. The Chief of Police shall be hired by the Council, in the same procedure as the City Manager and shall have authority over the Police Department. The subordinate members of the police force shall each be appointed by the City Council upon the recommendation of the Chief of Police for an indefinite term and may be removed for just cause by a majority vote of all the elected members of the City Council. The police force shall preserve peace and order and shall compel obedience within the City limits to the ordinances of the City and the laws of the State of Delaware. The police force shall have such other duties as the City Council shall from time to time prescribe. Operational control of the daily routine and responsibilities of the Police Force shall be the responsibility of the Chief of Police. The authority of the Chief of Police shall be subordinate and answerable to the Mayor and the City Council. The Council may, from time to time, make rules and regulations as may be necessary for the organization, government and control of the Police Force.

11.5.2. Power and Duties. Within the City limits of the City of Harrington and one mile beyond said limits, each member of the police force shall have all the police powers and authority of a State Peace Officer and shall be conservators of the peace; they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property; they shall compel the enforcement of all ordinances enacted by the City Council, and of all criminal laws and motor vehicle laws enacted by the State of Delaware; and they shall suppress riotous, disorderly or turbulent assemblages of persons in all public ways and places of the City, and upon view of the above or upon view of any violation of any ordinance of the City relating to the peace and good order thereof, the police force shall have the right and power to arrest without warrant. In the case of a pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of the City of Harrington to any part of the State of Delaware.

11.6. Other Officers, Employees, and Agents. The City Council may provide for the appointment or hiring of such other officers, employees and agents of the City, which it may deem proper and necessary, for the proper conduct and management of the City. Unless governed by the terms of a written contract, a written personnel policy, a written personnel classification or merit system, or a written grievance or disciplinary procedure duly adopted by the City Council, any such officers, employees and agents of the City, may be removed at any time, with or without cause, by the City Council at the pleasure of the City Council.

11.7. Compensation. The City Council shall, by ordinance, budget or resolution, fix the amount of any salaries or compensation for the employees, officers and agents of the City, provided that the Mayor and City Council members shall not be included under this subsection. No officer, employee or agent of the City shall in any form have, take, or receive from the City any compensation, in addition to the salary or compensation fixed by the City Council, except for reimbursement for actual and necessary expenses incurred by them in the performance of their duties, if such reimbursement be authorized and approved by motion, resolution or order of Council.

11.8. Personnel Records. The City Council shall cause to be kept a full and complete record of all officers appointed, and employees and agents hired by the City, containing the names of such officers, employees and agents, the dates of their employment, any salary or compensation to be by them received, the date of the termination of their services, and any other relevant personnel employment information.

12. Assessment for Taxes.

12.1. Adoption of Kent County Assessments. Unless the City Council shall make its own independent assessment and valuation, the City Council shall use the assessments of Kent County for any or all property located within the corporate limits of the City of Harrington, anything herein to the contrary notwithstanding. The assessed values established by Kent County for the then-current tax year shall be conclusive for purposes of levying City taxes, and the City Council shall have no authority to hear appeals (under § 12.5) regarding same. If the City Council elects to adopt the Kent County Assessments, only this section and § 12.4.2 (Additions to Tax Bills) shall have effect for that tax year; but the City Council shall have authority to consider appeals concerning any additions to tax bills under § 12.4.2 at any regular or special meeting. Council shall elect to adopt the Kent County Assessments no later than May 1 of each year.

12.2. Additions to Tax Bill. The City Council may annually, prior to the posting of the assessment list, by resolution, provide for the City Manager a list of any and all charges, costs or other assessment owed to the City, which list of charges incurred shall include, but not limited to, the following: water bond sinking fund assessments, sidewalk assessments, curb and gutter assessments, water assessments, weed and grass cutting bills, trash collection bills, past due water rents and/or past due charges for sanitary sewer service. Said amounts, when adopted and set forth by resolution of Council, shall be shown on the copies of the assessments posted pursuant to the provisions of § 12.5.1 of this Charter.

12.3. Assessment and Taxation of Gas Mains, Telephone, Telegraph, and Power Poles and Appurtenances. The Council shall have the right to levy and collect on gas mains, telephone, telegraph and power poles or other erections of like character within the limits of the City, together with wires and appliances thereto or thereon attached, and to this end may at anytime direct the same to be included in or added to the City assessment.

12.4. In the event that the mayor and council of the City of Harrington desire to collect and levy taxes on newly constructed property not taxed by virtue of the annual assessment, the City may enact an ordinance e to do so provided that: At the beginning of each quarter of each year, there shall be an increase in the valuation and assessment of all newly constructed real property within the city, locating each parcel of real property by street and number or other description. Property shall be deemed to be newly constructed when the city

permits occupancy and use (certificate of occupancy) or when new construction is being used or occupied for its intended purpose. The said valuation and assessment shall be made in accordance with the provisions set forth in section 12.1 of this Charter. The aforementioned assessment shall be during the months of January, April, July, and October of each year. Nothing in this section contained shall be deemed or held to invalidate or otherwise affect any assessment made prior to the approval of this section or any tax levied thereunder. All taxes shall be paid to the collector of taxes. Said taxes shall be paid within 30 days of billing and those taxes not paid shall accrue a penalty in the amount of one and one-half percent per month. For every tax that is not paid as prescribed herein, the tax collector shall have all the powers conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County. The council shall have the authority to allow errors and delinquents in the assessment.

13. Annual Budget; Determination of Revenue Needs and Sources.

13.1. Annual Budget. On or before the first day of May each year, the Budget Committee and the City Manager shall prepare and submit to the Council a budget, presenting a financial plan for conducting the affairs of the City for the ensuing fiscal year. The budget shall include the following information:

(a) A detailed statement showing the expenses of conducting each department and office of the City for the current year and last preceding year.

(b) A detailed estimate of the expenses of conducting each department and office of the City for the ensuing fiscal year with reasons for the increases and decreases recommended.

(c) The amount of the debt of the City together with a schedule of maturities of bond-issues.

(d) A statement showing the amount required for interest on the City debt and for paying off any bonds maturing during the year and the amount required for the sinking fund.

(e) An itemized statement of all anticipated income of the City with a comparative statement of the amounts received by the City from each of the same or similar sources for the past preceding and current fiscal year.

(f) Such other information as the City Manager may think desirable or as may be required by Council. The Council shall, on or before the thirtieth day of June in each year, adopt a budget for the succeeding fiscal year. The Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

13.2. Determination of Revenue Needs. On or before the first day of May of each year and after the valuation and assessment shall have been examined, revised, and completed and after the annual budget has been adopted, the City Council shall determine, in its best judgment and knowledge, the total amount necessary to be raised by the City to meet the fixed and anticipated expenses and obligations of the City, including reasonable and appropriate reserves, for the then current fiscal year as set forth in the City Budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies.

13.3. Determination of Revenue Sources. The City Council shall then proceed to determine, in its sole discretion, from which sources of the authorized revenues of the City the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect to any such source, the amount to be raised from each such source. They shall then proceed to determine, assess, fix and/or levy as follows:

13.3.1. Real Property Taxes. The rate of tax on real estate including improvements thereon per One Hundred Dollars ($100) of the assessed value; and/or

13.3.2. Utility Fixtures. The rate of tax upon all gas mains, poles, construction, erections, wires and appurtenances thereto; and/or

13.3.3. License Fees. The several license fees to be charged for carrying on or conducting any trade, businesses, professions or occupations carried on in the City; and/or

13.3.4. Municipal Services. The several rates to be charged for furnishing water service, sanitary sewer, trash collection; and/or other City services.

13.3.5. Other Services. The fees or rates to be charged in respect to any other authorized source or revenue sufficient in their judgment and estimation to realize the amount to be raised from each such source determined by them to be used as aforesaid, provided, however, that sources 13.3.3, 13.3.4, and 13.3.5 aforementioned may be determined, fixed assessed, levied and/or altered or changed upon other than a fiscal year basis at any regular or special meeting of the City Council as the City Council, in its discretion, shall determine.

14. Tax Levy; Tax Limit; Savings Clause.

14.1. Tax Levy. The setting of the tax rate pursuant to §§ 13.3.1 and 13.3.2: (a) shall constitute the levy of such taxes and charges in accordance with the assessment list (subject to any pending assessment appeals to the Superior Court) and (b) shall constitute the Council's direction and authorization to the City Manager to make collection, when due, of such taxes and charges. The City Council shall obtain a bond for the City Treasurer, City Manager and/or Bookkeeper as necessary, in form suitable to the City Council with sufficient surety, in favor of the City of Harrington, in a sum to be determined by the City Council conditioned upon the faithful discharge of the trust imposed in them and for the collection of all taxes committed to them, and for the payment of the amount of all such taxes, excepting only as far as the City Council shall make allowances for. The City Manager shall proceed to collect the same as hereinafter provided.

14.2. Tax Limit. The total amount of money to be raised by real property taxes (§ 13.3.1) and utility fixture taxes (§ 13.3.2) shall in no year exceed ten percent (10%) of the total assessed valuation of all taxable real estate (and improvements thereon) in the City; but added thereto shall also be fixed a rate which will produce an amount sufficient to provide for interest on bonds, the redemption thereof at their general maturities, and to cover the sinking fund requirements. A reasonable sum for delinquencies, discounts and cost of collection may be added by Council to the amounts aforesaid, together with any additional sum or sums authorized to be levied and collected as in this Section, shall be levied and collected by the Council on the property and persons assessed as aforesaid and in accordance with such assessment and according to rates established by the Council.

14.3. Savings Clause. Nothing contained in this Charter shall be construed to affect or impair in any way the validity of any tax, fee, assessment or other charge lawfully levied, assessed or due the City of Harrington made prior to the approval of this Charter and the same are hereby declared to be valid, binding and vested in the City of Harrington created hereby.

15. Collection of Taxes.

15.1. Collection by City Manager. The City Manager shall be responsible for the collection of taxes hereunder.

15.2. Lien. All taxes (and municipal charges) so laid or imposed by the City shall be and constitute a lien, for a period of ten (10) years from the date so levied, upon the real estate against which such taxes are laid and imposed. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so levied. Subject to the provisions of Chapter 29 of Title 25 of the Delaware Code, as it may from time to time hereafter be amended, or in accordance with the provisions of any future corresponding provisions of law, such lien shall have preference and priority to all other liens on such real estate as aforesaid, created or suffered by the said taxable, although such lien or liens be of a time and date prior to the time of the attaching of such lien for taxes.

15.3. Due Date; Discount for Early Payment. All taxes shall be due and payable at and from the time the real property tax rate is set under § 13.3.1. All taxes shall be paid to the City of Harrington. All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City of Harrington, in federally-insured banking institutions approved by the City Council.

15.4. Place of Payment. All taxes shall be payable at the City Office of the City of Harrington during the regular business hours of that office.

15.5. Penalty for Late Payment; Collection Fee. On all taxes paid on or after November 1st of each year, there shall be added and collected a penalty of two percent (2%) every month or fraction thereof such taxes shall remain unpaid, said penalty to be effective on the first day of October, and said penalty shall be collected in the same manner as the original amount of the tax. The City Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid a year and a day after due shall be considered delinquent. In effecting a collection of any delinquent tax, the City Council may impose a collection charge reasonably calculated to recover the costs of collection.

15.6. Collection of Delinquent Taxes. It shall be the duty of the City Manager to proceed forthwith to collect all taxes together with penalties and costs (all hereinafter "delinquent taxes") unpaid a year and a day after due. In the collection of said delinquent taxes, the City Manager of the City of Harrington shall have all of the powers and authority conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County as set forth in 9 Del.C. Ch. 87 as it may, from time to time hereafter, be amended, (or in accordance with any future corresponding provision of law). Except as otherwise expressly stated herein, the provisions of 25 Del. Laws, c. 29, as it may from time to time hereafter be amended, (or in accordance with any future corresponding provision of law) shall be deemed and held to apply to all taxes levied and imposed under the provisions of this Charter.

16. Borrowing Powers.

16.1. Short-Term Borrowings by City Council Without Voter Approval, Revenue Anticipation Loans. The City Council shall have the power to borrow money on the full faith and credit of the City, without approval of the voters and without regard to the provisions of Section 16.2 or 16.3 of this Charter, such sum or sums not exceeding in the aggregate a sum equal to five percent (5%) of the total assessed value of all non-tax-exempt real property situated within the bounds of the City of Harrington as such boundaries shall from time to time appear for general purposes when, in the opinion of a majority of the entire City Council, the needs of the City require it; provided, however, that any new borrowings under this Section 16.1 made after the effective date of this act shall, by their terms, be repayable in full within ~~five (5)~~ ten (10) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the City Council duly authorized by Resolution of the City Council and signed by the Mayor and attested by the Clerk of the City Council with the municipal seal affixed. No Council member nor the Mayor shall be personally liable for the payment of any such note or any other evidence of indebtedness because it is signed by him as a Council member or as Mayor, provided that he is so authorized by Resolution of City Council. Such notes or evidences of indebtedness and the interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions (including any county or municipal government). Any sum(s) of money borrowed on the full faith and credit of the City shall be paid from the general funds of the City. The aggregate amount of outstanding principal from any such borrowing or borrowings under this § 16.1 shall at no time exceed a sum equal to five percent (5%) of the total assessed value of all non-tax-exempt real property situated within the bounds of the City of Harrington as such boundaries shall from time to time appear.

16.2. Long-Term Borrowings for Certain Projects Without Voter Approval; Public Hearing and Super-Majority Vote of City Council Required.

16.2.1. Limit on Borrowing and Aggregate Indebtedness without Voter Approval; Super-Majority Vote. Subject to the provisions of this Section 16.2.1, the City Council shall have the power to borrow money on the full faith and credit of the City for the payment of principal thereof and interest due thereon, without approval of the voters and without regard to the provisions of Section 16.3 of this Charter, such sum or sums not exceeding in the aggregate a sum equal to three and one half percent (3.5%) of the total assessed value of all non-tax-exempt real property situated within the bounds of the City of Harrington as such boundaries shall from time to time appear, for those specific municipal purposes specified in Section 16.2.3, when, in the opinion of at least five (5) members of the City Council, the needs of the City require it; provided, however, that any new borrowings under Section 16.2 made after the effective date of this Act, shall, by their terms, be repayable in full within thirty (30) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the Mayor and Council duly authorized by Resolution adopted by at least five (5) members of the City Council and signed by the Mayor and attested by the Clerk of Council with the town seal affixed. Any sum(s) of money borrowed on the full faith and credit of the City shall be paid from the general funds of the City.

16.2.2. Procedure: Notice, Hearing. In order to proceed under the power granted in Section 16.2, the City Council shall authorize such borrowing in the following manner:

(a) The Mayor and Council by Resolution shall give notice to the residents and property owners of the City that the City Council propose to borrow a sum of money, not to exceed a stated amount, for a stated municipal purpose authorized under Section 16.2.3. The resolution shall state the amount of money desired to be borrowed (which may be stated as a "not to exceed" amount), the purpose for which it is desired, the manner of securing same, and such other facts relating to the loan which are deemed pertinent by the City Council and in their possession at the time of the passage of the Resolution; and shall fix a time, date, and place for a public hearing on the said resolution.

(b) Notice of Public Hearing on Resolution Authorizing Borrowing Required.

(1) Notice of the time, date, and place of the hearing on the resolution authorizing said loan shall be published in a newspaper of general circulation in the City not less than ten (10) days, nor more than twenty (20) days, prior to the date set for the public hearing. In addition to the time, date, and place of the public hearing, such notices shall contain the same information as required under Section 16.2.2(a) above.

(2) In addition to publication as herein provided, the City Council shall, not less than ten (10) nor more than twenty (20) days prior to the date set for the hearing, cause a public notice containing the information required above to be posted in at least five (5) public places in the City. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

(c) If, at any time following the public hearing, the City Council determines to proceed with the proposed borrowing, it shall pass a second Resolution, by the affirmative vote of at least five (5) members of the City Council, to proceed with the proposed borrowing.

16.2.3. Municipal Purposes for Which the City Council May Make Long-Term Borrowings Without Voter Approval. The power and authority of the City Council to incur long-term indebtedness on the full faith and credit of the City without voter approval under Section 16.2 shall be limited to the following:

(a) Erecting, enlarging, repairing, or replacing any plant, building, structure, machinery, or equipment for the production, treatment, collection storage, supply, distribution of water, sanitary sewage, or storm waters, or any of them, and the condemning or purchasing of any lands, easements, and rights-of-way which may be required therefore.

(b) Laying out, constructing, paving, widening, or extending streets, lanes, alleys, and public ways, curbs, and gutters, including storm sewers along the same, and the condemning or purchasing of lands, easements, or rights-of-way which may be required therefore.

(c) Erecting, enlarging, repairing, or replacing any municipal building including, by way of example, a Town Hall, a Police Department Building, a municipal warehouse,

and the condemning or purchasing of lands, easements, or rights-of-way which may be required therefore.

(d) Paying all expenses deemed necessary by the Mayor and Council for the issuance of said bonds or certificates of indebtedness, including bond discount and legal expense of bond counsel.

16.3. Long-Term Borrowings, Voter Approval Required. In addition to other borrowing powers granted to the City under this Charter or by special act, the City Council shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or certificates of indebtedness to secure the repayment thereof, on the full faith and credit of the City, or such other security or securities as the City Council shall elect, for the payment of principal thereof and interest due thereon.

16.3.1. Proper Municipal Purpose. By way of illustration and not in limitation, "any proper municipal purpose" includes, but is not limited to: (a) refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein, (b) erecting, extending, enlarging, maintaining, or repairing any plant, building, machinery, or equipment for the handling, production, manufacture, supply, treatment or distribution of gas, water, electricity, sanitary sewer, or stormwater drainage system, or any of them, and the condemning or purchasing of any lands, easements, and rights-of-way which may be required therefore, (c) constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, sidewalks, curbing and/or gutters, including stormwater sewers, along the same, and the condemning or purchasing of lands, easements or rights of ways which may be required therefor, (d) defraying the costs to the City of any other municipal improvement provided for or authorized or implied by the provisions of this Charter (e) paying all expenses deemed necessary by the City Council for the issuance of said bonds or certificates of indebtedness, including bond discount and legal expenses of bond counsel.

16.3.2. Exempt From Taxation. All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City pursuant to the provisions of this section, and the interest thereon, shall be exempt from all taxation by the State of Delaware, its agencies, and political subdivisions (including any County or municipal government).

16.3.3. Limit of Aggregate Long-Term Indebtedness. The aggregate of the amount so borrowed together with all other bonded indebtedness for which the full faith and credit of the City of Harrington has been pledged shall not at any time exceed a sum equal to twenty-five percent (25%) of the total assessed value of all non-tax-exempt real property situated within the bounds of the City of Harrington as such boundaries shall from time to time appear.

16.3.4. Procedure: Notice, Hearing, Election. In order to proceed under the power granted in this section, the City Council shall authorize such borrowing in the following manner:

(a) The City Council shall by resolution, give notice to the residents and property owners of the City that the City Council proposes to borrow a sum of money, not to exceed a stated amount, for a stated municipal purpose. The resolution shall state the amount of money desired to be borrowed (which may be stated as a "not to exceed"

amount), the purpose for which it is desired, the manner of securing same, and such other facts relating to the loan which are deemed pertinent by the City Council and in their possession at the time of the passage of the Resolution; and they shall fix a time, date and place for a hearing on the said resolution. Where the City Council is proposing to borrow money for several distinct purposes, the resolution shall identify each such purpose and the amount desired to be borrowed as to each.

(b) Notice of Public Hearing on Resolution Authorizing Borrowing Required.

(1) Notice of the time, date, and place of the hearing on the resolution authorizing said borrowing shall be published in a newspaper of general circulation in the City not less than ten (10) days, nor more than twenty (20) days, prior to the date set for the public hearing. In addition to the time, date, and place of the public hearing such notices shall contain the same information as required under § 16.23.4(a) above.

(2) In addition to publication as herein provided, the City Council shall, not less than ten (10) days nor more than twenty (20) days prior to the date set for the hearing, cause a public notice containing the information required above to be posted in at least five (5) public places in the City. In the event the publications and/or postings do not appear on the same date, the date of the last publication shall control.

(c) If, at any time following the public hearing, the City Council determines to proceed with the proposed borrowing, it shall pass a second resolution ordering a special election to be held, upon not less than twenty-one (21) nor more than sixty (60) days public notice, for the purpose of voting for or against the proposed borrowing. The passage of the second Resolution shall ipso facto be considered a determination by the City Council to proceed with the matter in issue; provided however, that the City Council may, at any time subsequent thereto, and based upon a significant change in the relevant circumstances, act by resolution passed by a majority of the entire Council to cancel the Special Election and abandon the proposed borrowing.

(d) Notice of Special Election Required.

(1) The notice of the time, date, and place of holding the said Special Election shall be printed in a newspaper of general circulation in the City, once a week for three successive weeks prior to the date set for the Special Election. In addition to the time, date and place of the election, such notice shall contain the same information as required under § 16.3.4(a).

(2) In addition to such publication as herein provided, the City Council shall, not less than twenty-one (21) days nor more than sixty (60) days before the date set for the election, cause public notice, containing the information set out in subsection (d)(1) above (using date of "posting" for date of "publication"), to be posted in at least three (3) public places in the City. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

(e) At such special election, any person who is entitled to vote in the regular municipal election if it were held on that day, shall be entitled to one vote. (For purposes of this

section, "entitled to vote" shall include "registered to vote" if voter registration is required for the regular municipal election).

(f) Any Special Election held pursuant to the provisions of this section shall be conducted by voting machines, electronic voting systems, or printed ballots as permitted by law which shall have the following designation:

(1) For the proposed borrowing

(2) Against the proposed borrowing

In the event the City is proposing to borrow monies for several projects, the foregoing designation shall be set opposite each such project so as to allow the voter to cast his vote for or against each. The voter shall be instructed to mark the box for which he casts his vote.

(g) The Mayor, by and with the advice and consent of the majority of the City Council, shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened for a minimum of seven hours. Persons in the polling place at the time appointed for closing of the polls shall be entitled to vote.

(h) The Board of Special Election shall be the sole and final judges of the legality of the votes offered at such special election. It shall keep a true and accurate list of all persons voting. It shall count the votes for and against the proposed borrowing(s) and shall announce the result thereof. The Board of Special Election shall make a certificate under their hands of the number of votes cast for and against the proposed borrowing(s) and the number of void votes and shall deliver the same to the City Council which said certificate shall be retained by the City Council with the other papers of the City.

(i) If a majority of the votes cast at such special election shall be in favor of any such borrowing(s), the City Council shall proceed with the issuance of the said bonds or certificates of indebtedness; provided, however, that based upon a significant change in the relevant circumstances, the City Council may, at any time prior to entering into a binding agreement for the public or private sale of such bond(s) or evidence(s) of indebtedness, by resolution passed by a majority of the entire Council, abandon the proposed borrowing.

16.3.5. Form of Bonds. The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination, the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the City Council after said Special Election.

16.3.6. Public or Private Sale. The bonds may be sold at either public or private sale. If the bonds shall be offered for public sale they shall be sold to the best and most responsible bidder(s) therefore after advertisement in a manner to be prescribed by the City Council, for at least one (1) month before offering the same for sale.

16.3.7. Provision for Payment: Special Tax, Sinking Fund. The City Council shall provide for the payment of interest on and principal of the said bonds or certificates of indebtedness at the maturity or maturities thereof. The said City Council is authorized and empowered, at its discretion, to levy a special tax upon all the real estate within the City or only upon such real estate as is directly benefited by the improvements paid for by the proceeds of such borrowing to pay interest on said bonds and/or principal; and at the Council's discretion, to establish a sinking fund adequate to the redemption, at or before maturity, of all bonds or certificates of indebtedness which may be issued under the provisions of this Section; provided, that the amount to be raised under any special tax for this purpose shall not in any one year exceed a sum equal to five per centum of the total bonded indebtedness. The special tax provided for in this Section 16.23.7 shall be collected from the owners of real estate in the same manner as the other real property taxes levied by the said City Council are collected. Said City Council may also appropriate and set aside for such sinking fund so much of the general funds of the City as it may from time to time think advisable. The sinking fund provided for by this Section 16.23.7 shall be deposited in federally insured deposits in a bank, trust company, or other banking institution until such time as it may be needed for the redemption of the bonds.

16.3.8. Full Faith and Credit Unless Otherwise Stated. Unless any such bond(s) or certificate(s) of indebtedness shall provide otherwise, the full faith and credit of the City of Harrington shall be deemed to be pledged for the due payment of the bonds and the interest thereon issued under the provisions of this section when the same shall have been properly executed and delivered for value notwithstanding any other provision of this Charter.

16.3.9. Statute of Limitations, 60 Days. No action contesting any proceedings conducted, or action taken, by the City Council hereunder regarding the authorization of any bonds or certificates of indebtedness issued under this Section 16.23 shall be brought after the expiration of sixty (60) days from the publication of a notice in at least two newspapers, one of which shall be of general circulation in the City of Harrington and one which shall be of general circulation in the State of Delaware, which notice shall announce the following information:

(a) That the City Council has determined to borrow a certain sum or sums of money and to issue bonds or certificates of indebtedness therefor;

(b) That the proposal(s) has/have been approved by a majority of those casting votes at a special election in the City called for the purpose of voting for or against the borrowing;

(c) The amount(s) of money to be borrowed;

(d) The purpose(s) for which each amount is to be borrowed;

(e) That any person desiring to challenge the authorization of such bond(s) or certificate(s) of indebtedness must bring legal action within sixty (60) days from the date of publication of such notice or forever be barred from doing so;

(f) In addition to publication as herein provided, the City Council shall cause a public notice, containing the information set out in subsections (a) through (e) above (using date of "posting") for date of "publication") to be posted in at least three (3) public

places in the City. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

17. Financial Matters Generally.

17.1. Use of City Monies. The City Council shall have full power and authority to use the money in the Treasury of the City, or any portion thereof, from time to time, for the improvement, benefit, protection, ornamentation and best interests of the City, as Council may deem proper, and to use City money to accomplish and carry into effect all acts and things which it has power to do by virtue of the laws of Delaware, this Act and all lawful ordinances and resolutions of Council.

17.2. Designation of Fiscal Year. The fiscal year of the City shall begin the first day of July and shall end with the next succeeding thirtieth day of June.

17.3. Cash Disbursements and Report of Same to Council. No claim against the City shall be paid except on a warrant or check approved by the City Manager and approved and countersigned by the Mayor and/or Treasurer. The City Manager shall examine all payroll, bills and other claims and demands against the City and shall issue no warrant or check for payment, unless he finds that the claim is proper and in proper form and correctly computed. The City Manager shall, at one monthly meeting of Council, present a report showing in detail all bills and other claims for which warrants or checks were drawn the preceding month, with exception of payroll and payroll-related expenses.

17.4. Annual Audit. The City Council shall retain a certified public accountant to be the auditor of accounts of the City of Harrington. Annually by the month of October, it shall be the duty of the auditor to audit the books and accounts of the City and all its officers whose duty involves the collection, custody and payment of moneys to the City. The auditor shall, on or before expiration of one hundred twenty (120) days from the end of the fiscal year, annually make and deliver a detailed report of any and all accounts, records, and books by them examined and audited which report under his hand and seal shall be available for public inspection. Notice of the filing of the auditor's report shall be published at least once in a newspaper of general circulation in the City of Harrington within thirty (30) days of its receipt by the City Council. The auditor, in the performance of his duties, shall have access to all records and accounts of the offices of the City.

18. Planning; Subdivision and Land Development.

18.1. Planning. The City Council may appoint a City Planning and Zoning Commission in accordance with Chapter 7 of Title 22 of the Delaware Code (as it may hereafter be amended, or in accordance with any future corresponding provision of the law) for the development and beautification of the City, and prescribe its powers and duties, which may include administration of a Zoning Ordinance and a land subdivision ordinance and providing advice to City Council with regard to any proposed amendments or revisions to the City's Comprehensive Plan, Zoning Map, or Zoning Ordinance.

18.2. Power to Regulate. In order to provide for the orderly growth and development of the City, to promote the health, safety, prosperity, and general welfare of the present and future inhabitants of the City, to insure the conservation of property values and natural resources, including the protection of the City's open lands, water resources, and recreational potential,

and to afford adequate provision for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the City may regulate the subdivision of all land in the City. Such regulation may, through ordinance, include:

18.2.1. Varying procedures for insuring the processing of combining, partitioning, or land subdivision plans, within a reasonable period of time, relative to the number of lots or parcels and the extent of improvements required;

18.2.2. Procedures for insuring that the arrangement of the lots or parcels of land or improvements thereon shall conform to the existing zoning at the time of recordation and that streets, or rights-of-way, bordering or within subdivided land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate prospective traffic, that adequate easements or rights-of-way shall be provided for drainage and utilities, that reservations of areas designed for their use as public grounds shall be of suitable size and location for their designated uses, that sufficient and suitable monuments and signage shall be required, that land which might constitute a menace to safety, health or general welfare shall be made safe for the purpose for which it is subdivided, and that adequate provision for water supply is made;

18.2.3. Procedures for encouraging and promoting flexibility and ingenuity in the layout and design of subdivisions and land development, and for encouraging practices which are in accordance with contemporary and evolving principles of site planning and development.

18.2.4. Requiring, through dedication of land, money in lieu of land, 'impact fees' or otherwise, that those subject to such regulation provide, at their own expense, such municipal or public improvements (including enlargement, expansion, improvement, or enhancement of existing municipal or public improvements) which have a rational nexus to the proposed land subdivision, combining, or partitioning, including, by way of example and not in limitation, the paving of streets, installation of sidewalks, curbs, storm sewers; water lines, storage or treatment facilities; sanitary sewer lines, lift stations, or treatment plants; electric distribution lines; street signs; access roads; playgrounds, parks, and open areas. In imposing such requirements, the City may consider and take into account future as well as immediate needs, and potential as well as present population factors affecting the neighborhood in question.

18.2.5. Procedures for insuring that any improvements to be constructed on such lands are in compliance with all appropriate City ordinances and that the placement and location of such improvements will not have a significant negative impact on adjoining properties.

18.2.6. Procedures for securing financial guarantees from the developers of such lands to insure satisfactory completion of all such required improvements, which may include extending the term of such guarantee for a reasonable period of time (not exceeding three years) beyond the actual completion of such improvements by the developer or acceptance of such improvements by the City.

18.3. Recording Unapproved Plans; No Legal Force or Effect. In the event an ordinance of the City so provides, no plat, plot, or plan of land for the subdivision, partition, or combining of land within the City shall be received for filing or recording by the Recorder of Deeds in and for Kent County unless and until such plat, plot, or plan shall have been approved by the City

body so authorized to grant such approvals and the fact of such approvals shall have been endorsed in writing on such plan. Any such plat, plot, or plan recorded in violation of this section shall be of no legal force or effect.

19. Streets and Alleys; Power to Lay Out, Locate, Open, Widen, Alter, Close, Vacate or Abandon.

The City Council shall have the power and authority to lay out, locate, and open new streets or alleys, or to widen or alter existing streets or alleys, or parts thereof, and to close, vacate, or abandon existing or proposed streets or alleys or parts thereof, whenever the City Council shall deem it in the best interest of the City.

19.1. Initiation of Proceedings. The procedures set forth in this Charter to lay out, locate, open, widen, alter, close, vacate, or abandon a street or alley in the City of Harrington may be commenced by resolution of the City Council.

19.2. Resolution Proposing Change; Notice; Hearing. Any such resolution shall contain a description of the proposed change and shall fix a time, date, and place when the City Council shall sit to hear comments and objections concerning the proposal. At least twenty-one (21) days before the date set for such hearing, the resolution adopted by the City Council shall be printed in a newspaper having a general circulation in the City of Harrington and shall be posted in three (3) public places in the City.

19.3. Notice to Effected Property Owners. The City Council shall also cause Notice to be mailed, to the owner(s) of record of the real estate through, over, or abutting which such street or alley may run. If the address of the owner be unknown, a copy shall be delivered to any persons occupying the premises, or if none, posted thereon. Notice to effected property owners under this § 19.4 shall be provided at least twenty-one (21) days before the date set for the hearing. Notice to one joint owner shall constitute notice to all.

19.4. Hearing. At the time and place in the resolution, the City Council shall hear such residents or taxable's of the City or owners of the property affected thereby, as shall attend the hearing. After hearing all comments, the City Council shall, at said meeting, or at a subsequent date, as it may deem proper, by motion proceed with, or abandon, the proposed locating, laying out, widening, altering, closing, vacating, or abandoning of any street(s) or alley(s) or parts thereof contemplated in its aforementioned prior resolution.

19.5. Payment of Compensation. In every case where the City Council shall resolve to proceed with the plan contemplated, or a portion thereof, the City Council shall award just and reasonable compensation after two professional appraisals are averaged to any person or persons who will thereby be deprived of property by virtue of the execution of the plan so contemplated. Such compensation, if any be awarded, shall be paid by the Treasurer of the City, on a warrant drawn upon him by authority of the City Council aforesaid upon delivery of a good and sufficient deed conveying a fee simple title unto 'The City of Harrington' which title shall be clear and free of all liens and encumbrances. Notice of compensation shall be given to effected property owners as provided in § 19.4.

19.6. Property Owner's Right of Appeal. If the owner be dissatisfied with the amount of compensation or damages allowed by the City, as aforesaid, said property owner may, within thirty (30) days after such notice, as aforesaid, was mailed, delivered, or posted on the

property, appeal from the written notice of award of compensation or damages by depositing in the United States mail, written notice, by certified mail with return receipt requested and postage prepaid, to the Mayor of the City to the effect that he or she is dissatisfied with the amount of such compensation or damages. Upon receipt of such notice of appeal, the City Council may abandon the proposed opening, improvements, closing, vacation, or abandonment or proceed under Chapter 61 of Title 10 of the Delaware Code (as it may from time to time hereafter be amended, or in accordance with any future corresponding provision of law) to condemn such property or interest therein and pay just compensation therefor.

19.7. Disposal of Abandoned or Vacated Street Lands. Whenever the land comprehended or included in any street or part thereof vacated or abandoned under this section be owned by the City, the City Council may, in its discretion, sell such land at public or private sale and for such consideration as the City Council shall deem proper. The City Council shall have the right and power to convey to the purchaser or purchasers thereof, good and sufficient title thereto for whatever estate the City may have therein.

19.8. 'Street' Defined. For all purposes of this § 19, the word "street" shall be deemed and held to comprehend and include sidewalks, lanes, alleys, roadways, streets, or other highways.

20. Constructing, Paving, and Repairing of Streets, Curbs and/or Gutters.

The City Council shall have full power and authority to regrade, redress and otherwise repair and rebuild all existing streets, lanes, alleys, other public thoroughfares, and/or curbs and gutters, in the City and to construct, built, pave, and in any manner improve all new and existing streets, lanes, alleys, other public thoroughfares and/or curbs and gutters now open, or to be hereafter opened, for public use in the City, and in so doing, may employ such contractors, engineers, inspectors and others as the Council shall deem expedient. To this end the City Council shall have full power and authority to enter into contracts or agreements with the State Highway Department of the State of Delaware for the permanent maintenance, repair and up-keep of any street, lane, alley, roadway or other highway within the City limits. The City Council shall also have full power and authority to expend such part or parts of the money of the City, in the general fund of the City not otherwise budgeted, towards the carrying out of any powers and authorities granted unto the City Council under and by virtue of this Section of the Charter.

21. Sidewalks.

In the event that it becomes necessary or desirable for the City to level, grade, flag, reflag, curb or recurb, gutter or regutter, pave or repave, the sidewalks, of the City of Harrington or to repair or improve any sidewalk, the following procedure shall be followed:

21.1. Resolution. The City Council shall adopt a resolution stating that on a named day and at a named hour and place, the City Council will meet to consider the question of laying, installing or constructing new sidewalks, or the repair or replacement of particular sidewalks on a named street adjoining, along, or in front of the property of a named owner or owners and the assessment of the costs thereof against such owner or owners. The resolution shall be delivered personally or mailed, certified mail, return receipt requested, to the owner(s) of such property(s) as shown on the City's tax records at least fifteen (15) days prior to the meeting. In the event the property is assessed to 'unknown owner', such notice shall be

posted on the property. The City Council shall hold a public hearing pursuant to said resolution and thereat shall hear the aforesaid owner or owners of property and other residents of the City appearing on the question referred to in said resolution.

21.2. Determination to Proceed. After such public hearing, the City Council, either at said public hearing, or at a subsequent regular or special meeting, shall decide whether or not to proceed with the improvements referred to in said resolution, and if it shall determine to proceed, the City Council shall determine whether the whole or some specified portion of the cost of the improvement adjoining, along or in front of the property of the said owner or owners named in the aforesaid resolution shall be borne by said owner or owners. If said determination shall be that the whole or a specified proportion of said cost shall be borne by the said owner or owners, then and in that event, the said owner or owners shall be compelled to pay the whole or a specified proportion of costs, as the case may be. The amount to be paid by the owner of each parcel for their property affected shall be determined according to the lineal footage of their parcel(s) adjoining, along or in front of which the improvement or improvements were made.

21.3. Assessment and Collection of Costs; Lien. Whenever the laying, installing or constructing of new sidewalks or replacement or repair of existing sidewalks or all of them have been made, and the cost thereof ascertained, the City Council shall ascertain the amount that the owner or owners of each parcel of property shall pay as hereinbefore stated, and shall give written notice thereof to said owner or owners. If such owner or owners shall fail to pay the specified amount within sixty (60) days after the mailing of such notice, the same, together with interest and costs, may be collected by the same procedures as are set forth herein for the collection of taxes. The amount so assessed shall be and constitute a lien upon all the property adjoining, along or in front of which the said work was accomplished, and such liens shall have preference and priority over any other liens or encumbrances against said property for a period of ten years from the date of mailing of the notice, although such other lien or encumbrance be of a date prior to the time of the attaching of such liens for the improvements as provided hereunder.

21.4. Notice. Whenever written notice is required to be given to any 'owner' by this section 21, notice to one co-owner shall be notice to all. Notice shall be given by personal delivery or by mailing same, certified mail, return receipt requested, proper postage affixed, to said owner at his or her last known address as shown on the City's tax records; provided however, that the failure of any owner to actually receive such notice, (being returned as, among other reasons, 'unclaimed', 'refused to accept', 'moved, no forwarding address') shall not invalidate any action taken under this § 21.

21.5. Change in Ownership. The word 'owner' as used in this section shall be deemed to mean the freeholders or leaseholders of the property at the time of the resolution adopted under § 21.1, and any change in ownership thereafter shall not be deemed or held to affect any of the proceedings described in this section.

21.6. Construction Supervision, Standards. The City Council in exercising the authority granted by this section, may use such materials and substances and such methods of construction and may employ such contractors, engineers, inspectors and others as the City Council may deem expedient.

22. Other Special Assessments.

The City Council shall have the authority to levy and collect special assessments upon property in a limited and determinable area for the special benefits accruing to such property as a consequence of any municipal public work or improvements, and to provide for the payment of all, or any part, of the costs of the work, service or improvements out of the proceeds of such assessments.

22.1. Owner Defined, Change in Ownership. When the term 'owner' or 'owners' is used with respect to special assessments, it shall be deemed to mean the person or persons who owned the property in question at the time of the enactment of the assessment ordinance, and any change in ownership thereafter shall not be deemed to affect any of the steps or proceedings described in this Section with respect to special assessment.

22.2. Ordinances for Levy and Collection of Special Assessments. The Council shall also have the authority to enact ordinances which provide for the levy and collection of assessments, against property owners, for the cost of installation of sanitary sewers, storm sewers, water mains, streets, sidewalks, streetlights, curbs, gutters, and other public improvements. Such ordinances shall prescribe the following:

A. The basis to determine the amount which shall be assessed upon the properties abutting the public work or improvements.

B. What portion of corner properties shall be considered frontage and what portion side frontage.

C. Payment provisions providing for payment in installments, except that assessment for current services or service connections shall be payable within one year; and

D. Rules under which individual appeals shall be heard.

All special assessments and all water and sewer service charges shall be liens and shall be entered in the Municipal Lien Docket as liens. The Council may provide for the payment of special assessments for whatever purpose levied by installments, but assessments for permanent improvements shall be paid in annual or more frequent installments, and assessments for current services shall be payable within one (1) years.

22.3. Municipal Lien Docket. A docket known as the 'City of Harrington Municipal Lien Docket' shall be prepared and maintained by the City Manager. The docket shall be in substantially the same form as the judgment docket for Kent County, shall contain all liens for municipal improvements for which special assessments are levied, and shall contain an index according to the name of the owner against whom such lien has been assessed. No municipal lien shall be valid after January 1, 1992 unless it is duly recorded in said docket. All liens so recorded shall continue in full force and effect until said assessment and accrued costs have been paid in full. Upon payment in full of the amount of the assessment and accrued costs, it shall be the duty of the City Manager to enter forth upon the docket, the date of final payment and the words 'satisfied in full'.

23. Drainage.

The City shall have the full jurisdiction and control, within the limits of the City, of the drainage of all water thereof, together with the right to alter and change the course and direction of any of the natural watercourses, runs and rivulets within the limits of the City and may pass ordinances for the opening of gutters, storm sewers and underground drains within the limits of the City. The City shall also have full power to regulate, maintain, clean and keep the natural watercourses, runs and rivulets within the City limits open and clean and unobstructed and for that purpose may authorize the entry upon private lands and take, condemn and occupy the same in accordance with the procedures set forth in Chapter 61 of Title 10 of the Delaware Code by like proceedings the City shall also have the power and authority to enter upon private lands and take, condemn and occupy the same for the purpose of laying-down gutters, storm sewers and underground water drains, or any of them, within the City limits.

24. Water System.

The City shall have full power and authority to provide an ample supply of potable water for the City and the inhabitants thereof. To this end, it shall have full power and authority to purchase, acquire by grant or gift, lease, erect, construct, maintain, operate, extend, enlarge, re-new, replace and control wells, reservoirs, pumping machines and stations, tanks, standpipes, water mains, fire hydrants and all other instruments for the collection, storage, purification, conveyance and distribution of water, over, on, under or through the lands controlled by the City or belonging to any private individual(s). The City Council shall have power to enact ordinances, rules and regulations in regard to the use for public or private purposes of water furnished by the City; the amounts to be paid by the users thereof; the means or methods whereby the same shall be collected; the fixing of fines, or penalties, or both, for any willful or negligent injury or damage to or interference with the water system or equipment of the City. The City Council may, at its option, furnish water from the City system to places and properties outside the City limits and upon special terms, charges and conditions as it shall deem beneficial to the City The City Council shall have the power to make contracts for the purchase of water and to distribute the same to users within or without the said City with the same full powers as if such water had been initially produced or reduced to usefulness by the City itself. The City Council shall have the power to enter contracts for the sale of water outside the limits of the City upon such terms and conditions as the City Council shall, in the exercise of its sound discretion deem to be advantageous to the City; and also to enter into mutual aid agreements with other water suppliers conducting operations near the limits of the City upon such terms and conditions as City Council shall deem best. The City Council shall have power to enact ordinances granting franchises for such term or terms of years as shall seem wise to the City Council to use the present or future streets, squares, alleys, and lanes of the City for the purpose of furnishing water to the City and to the persons, firms or corporations residing therein, and for the purpose of transmitting the same, or any, or all of them, through, over, across or under said streets, squares, alleys, and lanes to points outside the City limits, any such franchise or franchises, to contain such restrictions, conditions, and stipulations as the said City Council shall deem advantageous to the City. The City may, by condemnation proceedings, take private land and property, or the right to use private land and property, under, over, or on the surface thereof, for the proper furnishing of an ample supply of potable water or the creation, construction, extension, maintenance of a proper water system, or the distribution thereof as above provided. The proceedings by condemnation under this Section shall be the same as

prescribed by Section Chapter 61 of Title 10 of the Code of Delaware as it may from time to time hereafter be amended or in accordance with any future corresponding provision of law.

25. Sewer System.

The Council shall have superintendence and supervision of the sewers and the sewage system of the City. They shall have power to install any or additional sewers in the City. The Council may take condemnation proceedings for sewer purposes, private land or the right to use private land under the surface thereof, for the laying of sewer mains. The proceedings by condemnation under this Section shall be in accordance with Chapter 61 of Title 10 of the Code of Delaware as it may from time to time hereafter be amended or in accordance with any future corresponding provision of law. The Council shall have power to make all ordinances, rules and regulations regarding the sewers and sewer systems of the City and the use thereof, and may fix fines and penalties for the violation of the provisions of such ordinances. The Council may require any property to be connected with the water and sewer mains and to compel the owner of such property to pay the cost of such connection and the tapping thereof shall be under the regulation and control of Council. The Council may extend the sewer system of the City to places outside of the City limits upon such terms, charges and conditions as it shall determine. The Council is hereby authorized to impose a charge or rent for the use of that sewer system of the City, both within and without the limits of the City and in addition to the connection or tapping charge.

26. Solid Waste and Sewage Disposal.

The Council shall have power to provide for the incineration and other sanitary disposal of litter, debris, refuse, garbage and sewage. The Council shall have power to adopt ordinances, rules and regulations in regard to solid waste and sewage disposal and set the amount to be paid by the users thereof.

27. Contracts.

The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or for purchases for the City, provided, however that:

A. No contract shall be made by Council for any purpose, the contract price of which is in excess of $50,000.00 without public competitive bidding;

B. The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any reason it deems advantageous to the City.

C. All formal contracts shall be signed by the Mayor with the seal of the City affixed and attested by the Clerk of the Council.

28. Actions or Suits; Notice of Claim.

No action, suit, or proceeding shall be brought or maintained against the City of Harrington, its officers (including the members of any board, commission, or agency), employees, or agents, whether now, hereafter, or previously serving as such, and no judgment, damages, penalties, costs, or other money entitlement shall be awarded or assessed against the City,

its officers, (including the members of any board, commission, or agency) employees or agents, whether now, hereafter or previously serving as such, in any civil suit or proceeding at law or in equity, or before any administrative tribunal, arising out of, connected with, or on account of any physical injury or injuries, death, or any other type of personal injury, (including libel or slander), or injury to property (whether real or personal) unless the person by or on behalf of whom such claim or demand is asserted, within one year from the happening of the incident giving rise to such injury shall notify the City of Harrington in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Mayor of the City of Harrington by certified mail with return receipt requested and postage prepaid.

29. Compendium.

It shall be the duty of the City Council, at reasonable intervals, to compile the ordinances, current regulations, orders and rules of the City of Harrington. The City Council shall have a reasonable number of copies printed for the use of the officials of the City and for public information. From time to time, upon enactment of new ordinances, current rules and regulations, or upon the enactment of amendments to same, the City Council shall enroll the same in the minutes of the City Council and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish the members of the City Council of the City of Harrington copies thereof as they are enacted and therefrom may cause supplements to be compiled and printed to any compendium thereof theretofore printed as above provided.

30. Repealer.

All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter shall be and the same are hereby repealed to the extent of any such inconsistency.

31. Survival of Powers and Validating Section.

31.1. All powers conferred upon or vested in the City Council of the City of Harrington by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the City of Harrington and/or the City Council of Harrington precisely as if each of said powers was expressly set forth in this Charter.

31.2. All ordinances, resolutions, orders, policies, and regulations adopted by the City Council of The City of Harrington and in force at the time of approval and effective date of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the City Council of Harrington under the provisions of this Charter.

31.3. All of the acts and doings of the City Council of Harrington or of any official, or of the Mayor, or the City which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the City of Harrington or under any provision of any prior Charter of the City of Harrington, prior to the approval and effective date of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

31.4. All taxes, debts, assessments, license fees, penalties, fines, forfeitures, and other charges due to the City of Harrington shall be and remain due to the City of Harrington and all

debts due from the City of Harrington shall be deemed to be debts of the City of Harrington, and the same shall remain unimpaired until paid.

31.5. All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the City of Harrington.

31.6. The bonds given by or on account of any official of the City of Harrington shall not be impaired or affected by the provisions of this Charter.

31.7. The Mayor and each member of the City Council, and any other appointed City official who holds office at the time of approval of this Act shall continue to serve until the expiration of his term of office.

31.8. All rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office, or agency appropriate under this Charter.

32. Separability.

If any provision, section, sub-section, paragraph, sentence, or clause of this Charter shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions, sections, sub-sections, paragraphs, sentences or clauses of this Charter.

33. Public Act.

This Charter shall be taken as and deemed to be a Public Act of the State of Delaware.

34. Effective Date.

This Act shall take effect upon its enactment into law.

Exhibit B

City of Harrington

Charter

Blackline Version

March 18, 2013

1. Incorporation.

The inhabitants of the City of Harrington within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided, are hereby constituted and declared to be a body politic incorporated in law and equity, by the corporate name of the 'City of Harrington' (hereinafter 'City'), with power to govern themselves by such ordinances, rules, resolutions, and regulations for municipal purposes as they, through their duly-elected officers and agents may deem proper, not in conflict with the provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, or of the United States; and as such shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts. The City shall have perpetual succession and shall succeed to own or possess all property, wherever situated, whether real, personal, or mixed, tangible or intangible, of whatever kind and nature, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed, or enjoyed by the City of Harrington previously incorporated at Chapter 215, Volume 64, Laws of Delaware, as amended.

2. Municipal Boundaries.

The municipal boundaries of the City of Harrington are hereby established and declared as recorded on the official map of record in the Office of the Recorder of Deeds in and for Kent County, Delaware, as presently existing and as hereinafter amended.

3. Annexation of Territory.

The City shall have power to annex any additional contiguous territory adjoining the then-existing corporate limits of the City as hereinbefore set forth or as hereafter extended pursuant to the procedures set forth in this section, and to apply to all such additional territory all laws, ordinances, resolutions, and policies in force in the City so far as they may be locally applicable.

3.1. Initiation of Annexation Proceedings.

3.1.1. As Authorized By General Statute. In addition to any other procedures authorized in this municipal Charter, the City may extend its municipal limits so as to include any portion of territory contiguous to the then-existing corporate limits of the City in accordance with the provisions of 22 Del.C. §101.

3.1.2. By Petition of the Property Owners. Any property owner(s) holding record fee title to real property in territory contiguous to the then existing corporate limits of the City may petition the City Council to annex that certain territory in which they own property. Such petition shall be in writing, duly executed and acknowledged by each petitioner, shall describe with reasonable certainty the territory proposed for annexation, indicate the property owned by each petitioner therein, and state the reasons for the requested annexation. The City Council may, within 90 days following the filing of such petition in the City Office, vote to accept such petition and proceed as hereinafter provided, or to reject such petition. Any petition not so accepted within said 90 days shall be null and void. For purposes of this §§ 3.1.1, 3.1.2, with 3.1.3 'territory contiguous to the then existing corporate limits of the City shall include both real property which, though itself not contiguous to the City's then existing corporate limits, is contiguous to other real property

which is proposed to be included in the annexation, and real property which would be contiguous under § 3.2.8(b).

3.1.2.1. By Petition of All Property Owners. If all of the property owners of the territory contiguous to the then-existing corporate limits of the City, by written petition with the signature of each such petitioner duly acknowledged, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Harrington shall appoint a committee composed of not less than three (3) of the members of the City Council to investigate the possibility of annexation. The petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its finding and conclusions to the Mayor and City Council of Harrington. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Harrington and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the City and to the territory proposed to be annexed, the City Council of Harrington may then pass a second Resolution annexing such territory to the City of Harrington. Such Resolution shall be passed by a majority of the members of the City Council. The passage of said second Resolution shall annex the property into the City and none of the procedures specified in §§ 3.1.3, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4 or 3.2.5 need be followed. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the City or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided as if the annexation were proposed by less than all of the property owners of a territory contiguous to the then limits and territory of the City of Harrington.

3.1.3. By Resolution of the City Council. The City Council may, at any time, adopt a resolution proposing the annexation of any territory contiguous to the City. Such resolution shall describe, with reasonable certainty, the territory proposed to be annexed, state the reasons for the proposed annexation, and establish the date, time and place for the holding of an election as hereinafter provided. If more than one territory is involved in any resolution, elections may be held in more than one of them on the same day, but the elections shall be separate; only the qualified voters and real property owners of a territory shall be counted in the election to determine whether that territory shall be annexed. Upon adoption of such resolution, the City Council shall proceed as hereafter provided.

3.2. Annexation Procedure. Whether annexation is proposed by petition of the property owners or by resolution of the City Council, the following procedure shall be complied with:

3.2.1. Notice. Notice of the election for annexation shall be published in a newspaper of general circulation in the area to be annexed at least ten (10) days prior to the day of the election. The notice shall contain a description of the area to be annexed, the time, place, and date of the election, and the eligibility of those who are entitled to vote. In addition to publication as herein provided, the City Council shall, not less than 10 days prior to the date of such election:

(1) Cause a public notice, containing the full text of the Resolution, to be posted in at least 3 different public places in the City and in at least one place, viewable to the public, in the territory proposed to be annexed; and

(2) Send a copy of such notice, certified mail, to the owners of record of the lands proposed to be included in the annexation at their address as shown on the public tax records. Written notice to one co-owner shall be notice to all.

3.2.2. Those Entitled to Vote.

(a) At such annexation election, any natural person who is a "qualified voter" or an owner of real property in the territory to be annexed shall be entitled to one vote; and each legal entity other than a natural person, (e.g. a corporation, partnership, trust, or association) owning property in its own name in the territory proposed to be annexed, shall be entitled to one vote. For purposes hereof, a "qualified voter" shall mean a bona fide domiciliary of the territory proposed to be annexed who is registered and qualified to vote according to the voter registration lists of the State Department of Elections.

(b) These provisions shall be construed in accordance with the principle of 'one-man, one vote'. Where a voter is entitled to vote by virtue of being both a "qualified voter" and an owner of real property, that voter shall be entitled to only one vote; where a voter is entitled to vote by ownership of two or more parcels of real property, that voter shall be entitled to only one vote. Where real property is held in a life estate, the holders of the life estate shall be deemed to be the sole owners and entitled to vote accordingly. Persons in joint ownership of real property shall be entitled to only one vote.

(c) Any legal entity (other than a natural person) entitled to vote must cast its vote by a duly executed and notarized power of attorney from the legal entity granting the authority to cast its vote to its designated attorney-in-fact. Such Power of Attorney shall be surrendered to the Election Officials who shall file same in the Office of the City. Such Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Annexation Election on behalf of the legal entity granting the power.

3.2.3. Conduct of Annexation Election; Election Officials.

(a) Ballots. The City Council may cause voting machines, electronic voting systems, or paper ballots to be used in the Annexation Election, as permitted or required by law, the form of ballot to be printed as follows:

_____ For the proposed annexation.

_____ Against the proposed annexation.

Any person (including a person acting pursuant to a valid Power of Attorney from a legal entity other than a natural person) who is entitled to vote in the election, but who shall be unable to appear in person, may vote by absentee ballot in accordance with such standards and procedures as established by City ordinance.

(b) Election Officials. The Mayor shall appoint three (3) persons to act as a Board of Special Election for the Annexation Election. One (1) of the said persons so appointed

shall be designated the Presiding Officer. The Board of Special Elections shall be the sole and final judge of the legality of the votes offered at such Annexation Election. It shall keep a true and accurate list of all natural persons and other legal entities voting.

(c) Polling Place. Voting shall be conducted in a public place as designated by the Resolution setting the Annexation Election. The polling place shall be open for not less than two (2) consecutive hours as set by the City Council, on the date set for the Annexation Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

3.2.4. Results of Annexation Election.

A majority of votes cast shall determine the result of the election. Upon the close of the voting, the results shall be publicly announced by the Presiding Officer of the Board of Special Elections. After public announcement of the votes cast, the total votes cast 'For' and the total votes cast 'Against' shall be certified to by the Board of Special Elections and presented to the City Council at its next regular meeting. The City Council at this regular meeting shall approve the votes as certified.

3.2.5. Resolution of Annexation.

(a) If a majority of the votes cast in an election held in a territory proposed to be annexed shall be in favor of the inclusion of that territory, the Council shall thereupon adopt a resolution annexing the said territory and including same within the limits of the City of Harrington. Upon adoption of a resolution of annexation, a copy thereof signed by the Mayor and certified by the Clerk of Council with municipal seal affixed, together with a plot of the area annexed, shall forthwith be filed for record with the Recorder of Deeds of Kent County. The territory so annexed shall be considered to be a part of the City from the moment the last mentioned resolution is adopted by the City Council. Failure to record said resolution, or the plot accompanying same, shall not invalidate the annexation, but such recording may be enforced by writ of mandamus.

3.2.6. Annexing City-Owned Property. Notwithstanding any provisions herein to the contrary, the City by resolution of Council may extend its corporate boundaries without an election, provided, that the said territory to be annexed is owned entirely by the City.

3.2.7. Annexation Agreements. Notwithstanding any provision herein to the contrary, where, pursuant to § 3.1.2.1 of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under § 3.1.2.1 of this Charter, such annexation agreement shall be deemed a material part of the annexation.

3.2.8. Property Owned by the State of Delaware; Property Owned by the City; Highways, Streets, Roads and Alleys; Ponds, Canals, Streams and Other Waters.

(a) Real Property Owned by the State of Delaware. Real property owned by the State of Delaware may be annexed into the City without the State's casting a vote in the Annexation Election, provided the state agency having control and supervision thereof does not notify the City, in writing, of its objection to such annexation within ten (10) days after receiving written notice of the resolution proposing the annexation as provided in § 3.2.1.

(b) Real Property Owned by the City. Real property owned by the City of Harrington may be annexed into the City by ordinance without the necessity of an election.

(c) Highways, Streets, Roads, and Alleys; Ponds, Canals, Streams, and Other Waters. Territory which would otherwise be contiguous with the City's then-existing corporate limits, or with other territory which is itself contiguous with the City's then-existing corporate limits, shall not be deemed non-contiguous merely by the existence of any highway, street, road, alley, pond, canal, stream, or other body of water which passes between or separates them.

3.2.9. Limitations. No action contesting the annexation of any territory under this section shall be brought after the expiration of 60 days from the publication of a notice in a newspaper of general circulation in the City and in the territory annexed, which notice shall contain the following information:

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

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

(c) In addition to publication as herein provided, the City Council shall cause a public notice, containing the information set out in subsections (a) and (b) above (using date of 'posting' for date of "publication"), to be posted in at least three public places in the City and in at least one place, viewable to the public, in the territory proposed to be annexed.

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

4. Powers of the City.

4.1. General. The City shall have and enjoy all the powers possible for a municipal corporation to have under the Constitution and laws of the State of Delaware, as fully and completely as though they were specifically enumerated in this Charter.

4.2. Enumeration of Powers. Not by way of limitation upon the scope of the powers vested in the City Council to exercise all powers delegated by this Charter or general law to the City (except as may expressly appear herein to the contrary), but rather by way of enumeration and example, the City Council is vested by this Charter with (among others) the following powers:

4.2.1. May grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and

conditions, and for such consideration, as the City Council shall deem in the best interest of the municipality, for the use of the present and future streets, highways, lanes, alleys, watercourses, parks, lakes, sidewalks, crosswalks, wharfs, docks, and other public places of the City for the purpose of furnishing heat, light, electric power and energy, gas, water, sanitary sewer, drainage, telephone, telegraph, television, railroad (excepting the railroads or railways engaged in Interstate Commerce), bus, taxi or other transportation carrier or public service to the City, and/or for the purpose of transmitting the same from or through the City to points outside the limits thereof, provided, however, that whenever any state or federal law grants exclusive jurisdiction over any such activity to a state or federal agency, the City shall have no authority inconsistent herewith.

4.2.2. May regulate and control the exercise of any license or franchise mentioned in Section 4.2.1 of this Charter.

4.2.3. May make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules, and By-Laws not contrary to the laws of this State and the United States as the City Council may deem necessary to carry into effect any of the provisions of this Charter or of any other law of the State relating generally to municipal corporations, or which they may deem proper and necessary for the order, protection and good government of the City, the protection and preservation of persons and property, and of the public health and welfare of the City and its inhabitants; provided, however that any Ordinance relating to the public health of the City and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same shall apply not only within the corporate limits of the City but as well to all areas and persons outside the City within one (1) mile from said limits.

4.3. Liberal Construction; Manner of Exercise. The powers of the City under this Charter shall be liberally construed in favor of the City, and the enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise thereof, the City shall have and may exercise any and all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter to specifically enumerate. All powers of the City, whether express or implied, shall be exercised in the manner prescribed by this Charter, or if not prescribed, herein then in the manner provided by ordinance or resolution of the City Council.

4.4. Intergovernmental Cooperation. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more States or civil divisions or agencies thereof, or the United States or any agency thereof, except as prohibited or restricted by the Constitution or laws of the State of Delaware or by this Charter.

5. Governing Body.

5.1. City Council. The government of the City and the exercise of all powers conferred by this Charter (except as otherwise provided herein) shall be vested in and exercised by a Mayor and Council as hereinafter provided.

5.2. Qualifications for Office.

5.2.1. Basic Qualifications. Candidates for the City Council or for the office of Mayor must be at least 18 years of age, have filed a nominating petition in accordance with § 5.4 of this Charter, and shall qualified to vote at the annual City election as provided in § 6.2.

5.2.2. Conviction of Felony or Crime of Moral Turpitude. No person having been convicted of a felony or crime of moral turpitude shall be qualified to be a candidate for office on the City Council or for the office of Mayor. For this reason, complete criminal history shall be researched by proper authorities.

5.2.3. Limitation on Terms. There will be no term limits on a person who holds the Office of Mayor under this Charter. There will be no term limits on a person who holds the Office of Council Person, under this Charter.

5.3. Election Districts. The Council shall be the legislative body of the City composed of six (6) members nominated and elected as herein provided. In order that the members of council shall be distributed over the City, the City shall be divided into six (6) election districts and one of said members of Council shall be a resident of each district. The election districts of the City of Harrington are hereby established and declared as recorded on the official map of record in City Hall. The district boundaries shall be established by the Council so that the districts are nearly equal in population as shown by the most recent federal decennial census. The district boundaries established for municipal elections shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware, at which time the Council shall redistrict the City so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election, which procedure shall be followed by the Council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.

5.3.1. Re-Apportionment; Additional Districts.

(a) The City Council may provide for additional districts and/or rearrange the boundaries of the existing districts as provided herein in the event of annexation or reapportionment, but in no event shall there be less than six districts. In the event additional district(s) are created, there shall be created a vacancy in the office of Councilman for the additional district(s) and Council shall fill such vacancies as herein provided.

(b) For the regular municipal election and for each election thereafter, the City shall be divided into six (6) election districts, the boundaries of which shall be established by City Council so that the districts are nearly equal in population as shown on the current federal decennial census. The district boundaries so established shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware, at which time the City Council shall redistrict the City so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election. Thereafter this procedure shall be followed by the Council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.

(c) In the event that any action is required hereunder to create new election districts and/or reapportion existing election districts, the City Council shall hold at least one public hearing on not less than 10 days public notice stating the date, time, place and purpose of the hearing which public notice shall be: (1) published in a newspaper of general circulation in the City and (2) posted in at least five (5) public places in the City. The City Council shall conduct its review and any proceedings or actions resulting therefrom, so that the boundaries of the new or re-apportioned election districts are finalized by December 31st of the year in which the review was performed. Notice of such new or re-apportioned election districts shall be published in a newspaper of general circulation and posted in five (5) public places in the City.

5.4. Nominations to Be By Petition. The mode of nomination of candidates for the Council and for the office of Mayor shall be by petition signed by the candidate and filed with the Clerk of Council, in the City Hall on or before 4:00 p.m. local time of the first Tuesday of April preceding the next municipal election. Should the first Tuesday of April fall on a legal holiday, the filing date shall be 4:00 p.m. local time on the next working day thereafter. Whenever a petition nominating a person for the office of Mayor or Councilman shall have been filed as above described, the name of such person shall be printed on the ballot for the regular municipal election as a candidate for the office for which the person was nominated, provided, the person possesses the qualifications prescribed by this Charter for a candidate of such office.

5.5. Council to Act as Final Judge. The City Council, by majority vote of its disinterested members, shall be the sole and final judge of the qualifications of its members, and shall interpret and apply the standards set forth in this Charter. If the Clerk of Council preliminarily determines that any candidate may not meet the qualifications for office, he shall notify the Mayor who shall call a special meeting of the City Council to be held not less than ten (10) days prior to the date set for the election, at which the disinterested members of the City Council shall decide the matter. The candidate whose qualifications are at issue shall be notified, in writing by registered mail or personal delivery, of the date, time and place of the hearing, at which he or she may appear and testify. If the City Council determines that the candidate does not meet the qualifications for office, it shall reject his/her nominating petition and his or her name shall not appear on the ballot. In making the determination, only those members of the City Council who are not up for re-election shall be entitled to vote on the question.

5.6. Terms of Office.

5.6.1. Mayor. The Mayor shall be elected by the qualified voters of the City, as defined in § 6.2 of this Charter, of the several election districts, to serve a term of four (4) years.

5.6.2. Members of Council. The members of Council shall be elected for their respective election district by the qualified voters of the City (as defined in § 6.2 of this Charter) residing in the respective election district, to serve a term of three (3) years.

5.7. Continuity in Office. For the purpose of carrying into effect the provisions of this Charter, the Mayor and members of Council now serving shall continue to serve as herein provided until the completion of the terms for which they were elected and/or until their successors are duly elected or appointed.

6. Municipal Elections.

6.1. Date of Regular Municipal Election.

6.1.1. An annual municipal election shall be held on the first Tuesday of May of each year which shall be known as the Regular Municipal Election for the purpose of electing members of Council or the Mayor or both as the case may be to fill expired terms. All other elections that may be held shall be known as Special Municipal Elections.

6.2. Voter Qualifications. Any person shall be qualified to vote who, on the date of the election, is a resident of the City of Harrington, a United States citizen, has attained eighteen (18) years of age, and is registered under the Kent County Voter Registration ordinances. A 'resident' shall mean any person who has been residing in the City prior to the date of the election.

6.3. Voter Registration. The City Council may enact such ordinances concerning the registration of qualified voters for municipal elections in the City as it deems reasonable or necessary to provide for the orderly and efficient conduct of municipal elections; provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor shall any such ordinances unduly impair the right to vote. Nothing herein shall be construed to prohibit the City from using the voter registration lists of the Department of Elections for Kent County in lieu of establishing its own registration procedures.

6.4. Uncontested Elections. Where there is only one official candidate for each office, if none of the official candidates has a formal opponent on the day of election, the official candidates may assume office without the holding of a formal election.

6.5. Date, Time, Place, Notice and Manner of Conducting.

6.5.1. Date, Time, and Place. The regular municipal election shall be held on the first Tuesday of May at such time and place, within the City, as shall be determined by the City Council. The polls shall remain open for at least a seven hour period to be determined by the City Council.

6.5.2. Notice of Elections. Notice of the regular municipal election shall be given by posting notice thereof in at least three public places in the City not less than ten (10) days before the day of such election and by publishing notice in a newspaper of general circulation in the City at least ten (10) days before the day for the election. Such notices shall state the date, time, and place of the election as well as a description of the positions to be filled.

6.6. Manner of Conducting Elections.

6.6.1. Voting Machines, Electronic Voting System. Elections shall be by voting machine, or electronic voting system as the City Council shall determine; provided however that voting machines or electronic voting systems shall be used if required for municipal elections by general statute.

6.6.2. Absentee Voting. The City Council may, (but shall not be required to), by ordinance, provide for a qualified voter (duly registered if required by ordinance) who shall be unable to appear in person, to cast his or her ballot at any municipal election by absentee ballot.

6.6.3. Rules Governing Conduct of Elections. The City Council may, by resolution, adopt such rules and regulations, not inconsistent with the provisions of this Charter or with applicable state or federal law, governing the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt.

6.6.4. Election Board. Every election shall be held under the supervision of an Election Board.

6.6.5. Election Results. When the polls are closed, the Election Board shall publicly count the votes and shall certify the results of the election to each of the persons elected and to the Council. The candidate for the office of Mayor who receives the highest number of votes cast for that office shall be declared to be elected Mayor, and the candidate for the office of Councilmember from each district who receives the highest number of votes cast for that office shall be declared to be elected to that office and they shall continue in office during the terms for which they are chosen, or until their successors are duly elected and/or appointed and qualified.

6.6.6. Ties, Challenges. In the event of a tie vote for any office, the Election Board shall determine such tie by lot.

6.6.7. Preservation of Ballots and Records. All ballots cast and all records of the election kept by the Election Board shall be preserved in the custody of the Election Board for a period of fifteen (15) days, unless an appeal is filed in a court of appropriate jurisdiction.

7. Organization of City Council.

7.1. Organizational Meeting. An organizational meeting of the City Council shall be held at the first regular City Council meeting held in June of the year following the annual City election. Such meeting shall be held at the usual place for holding regular meetings. The newly elected Council members shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, a Justice of the Peace, or by one of the holdover Council members.

7.2. Officers. The Mayor and members of the City Council shall be elected by the qualified voters of the City. All other officers shall be appointed offices, such appointments to be made by the City Council, as provided in § 11 of this Charter. At the organizational meeting, the City Council members shall elect from among their own members a Vice Mayor who shall serve in that position for a term of one year or until the organizational meeting the June following the next succeeding election.

7.2.1. Mayor. It shall be the duty of the Mayor to preside at all meetings of the City Council, to serve as the head of the City government for all ceremonial purposes or for purposes of military law; to appoint such standing or ad hoc committees as he deems necessary or appropriate, such appointments to be subject to council confirmation, and to perform such other duties as may be prescribed by any ordinance or resolution adopted by the City Council. The Mayor shall have no vote on any matter except in case of a tie. For purposes of establishing a quorum, the Mayor shall not be counted, but only members of the Council. The Mayor shall be authorized to act on behalf of the City, without prior Council approval, in the event of some sudden emergency requiring immediate action in order to protect the public health, safety, and welfare of the City, its residents and property owners. A 'sudden

emergency' for purposes of this section shall include, by way of example and not in limitation, a major fire or conflagration, significant and dangerous flooding or serious storm threatening significant damage, a major civil disturbance, or a toxic spill. A "sudden emergency" shall also include any emergency situation as declared by any County, State, or Federal agency having jurisdiction over the City where the scope of the emergency so declared includes the City of Harrington and it is not reasonably possible to convene a special meeting of the Council. If reasonably possible, the Mayor shall notify each Council member, in writing, of the action so taken by him within 24 hours. Notice shall be complete upon depositing such notice in the U.S. Mail, proper postage affixed, to each Council member at his or her last known address or upon personal delivery. Any action taken by the Mayor under the powers vested in him under this section shall be as good as the act of the entire Council, provided that the Council may at any regular or special meeting held within 15 days of the Mayor's action, cancel the further implementation of any such action not yet completed and notify any persons or legal entities thereby affected.

7.2.2. Vice Mayor. The Vice Mayor shall act as Mayor during the absence or disability of the Mayor, and shall perform such other duties as may be assigned to him by the Mayor or by ordinance or resolution adopted by the City Council.

7.2.3. Treasurer. The City Council shall appoint the Treasurer as the City Treasurer who shall be custodian of all City funds and shall authorize deposit into federally-insured banking institutions located in the City as necessary. The Treasurer shall pay no money except upon warrant or check countersigned by the Mayor, or in the Mayor's absence, by the Vice-Mayor. The Treasurer shall be responsible for seeing that a true and detailed account of all monies received by the City is maintained on a current basis. The books and accounts of the City shall at all times be open to inspection by the Council or Mayor. The City Treasurer shall make such reports and at such times as the Council may direct. The City Treasurer shall be required to give bond in such amount and in such form with such surety as the Council shall determine and approve the cost of said bond to be paid by the City.

7.3. Succession of Authority. In the event that the Mayor is unavailable or incapable of assuming his responsibilities in a sudden emergency (as defined in § 7.2.1) the emergency powers therein vested in the Mayor shall devolve upon the following officers and officials of the City in the following order of sequence: (1) Vice Mayor, (2) Each of the remaining Council members in order of their total number of years served on Council, (3) the City Manager, (4) the Chief of Police, (5) the Clerk of the Council.

7.4. Prohibitions.

7.4.1. Holding Other Office. Except where authorized by law, no member of the City Council, nor the Mayor, shall hold any other City Office or City employment during the term for which he was elected to Council. No councilmember or Mayor may apply for any compensated position with the City of Harrington unless he/she has resigned from the elected position prior to submitting application.

7.4.2. Contracts with the City. It shall be unlawful for the Council or the City's officers, agents, or employees, to make or enter into any contract for materials, supplies, work or labor for the use and benefit of the City with any member of Council or the Mayor, or with any partnership in which any member of Council, or the Mayor, is a partner, or with any

corporation in which any member of Council, or the Mayor, is a director or has a controlling interest, except with the unanimous consent of the disinterested Council members, and any such contract shall be absolutely null and void without such unanimous consent.

7.4.3. Restrictions Related to Personal or Private Interest.

(a) A Mayor or Council Member who has a personal or private interest in any measure pending in the City of Harrington shall disclose the fact to the Council, which he or she is a member, and shall not participate in the debate nor vote thereon; provided that upon the request of any other member of the Council or Mayor, as the case may be, a Council Member or Mayor who has such a personal or private interest may nevertheless respond to questions concerning any such measure. A personal or private interest in a measure is an interest which tends to impair a Council Member's or Mayor's independence of judgment in the performance of his or her Council duties with respect to that measure.

(b) A Council Member or Mayor has an interest which tends to impair his or her independence of judgment in the performance of his or her Council duties with regard to any measure when: (1) the enactment or defeat of the measure would result in a financial benefit or detriment to accrue to the Council Member, Mayor or a close relative to a greater extent that such benefit or detriment would accrue to others who are members of the same class or group of persons, or (2) the Council Member or Mayor or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by a measure to a lesser or greater extent than like enterprises or other interests in the same enterprise.

7.5. Vacancies, Forfeiture of Office.

7.5.1. Vacancies. The office of Mayor or City Councilmember shall become vacant upon death, resignation, lawful removal from, or forfeiture of office.

7.5.2. Forfeiture Proceedings. A forfeiture of his office shall occur when the Mayor or any Councilmember:

(a) lacks, at any time during his or her term of office, any qualification for the office prescribed by this Charter or by law.

(b) willfully violates any express and substantive prohibition in this Charter.

(c) is convicted of a felony or any crime involving moral turpitude anywhere in the United States.

(d) fails to attend three consecutive regular council meetings without being excused by Council.

7.5.3. Determination Concerning Forfeiture. Where the conditions set forth in 7.5.2 (c) or (d) occur, forfeiture shall be automatic. Where the conditions set forth in 7.5.2 (a) or (b) are alleged to have occurred, a determination concerning such alleged forfeiture shall be made by the Council, but the affected party shall not have a vote in any such decision. Such deliberations may be held in executive session and if the Council determines by a

unanimous vote of the Council members entitled to vote on the question, that forfeiture has occurred, it shall, within forty-eight hours of that determination, provide written notice thereof to the affected Council member, stating specific reasons. The affected party shall then have ten days in which to make a written demand for a public hearing before the Council, to be held within twenty days of the written demand, at which hearing he or she may appear with the assistance of counsel and present evidence to the relevant issues. Thereafter, the Council shall hear any other relevant evidence and vote again on the question of forfeiture; and if a determination of forfeiture is again made by a unanimous vote by secret ballot of the Council members entitled to vote on the question, that decision, with a statement of the reasons therefor, shall be placed in the minutes and shall be final. Written notice of the decision shall be sent by certified mail, return receipt requested, within 48 hours of the decision.

7.5.4. Failure to Request Hearing as a Bar. Failure of the affected person to make written demand for a public hearing as hereinabove stated shall be an absolute bar to his right to challenge the Council's decision. Public hearing may be waived by the affected Council member. During, or in connection with, any such proceedings, the Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done if requested in writing by the affected person.

7.6. Filling Vacancies on Council. In case of a vacancy in the office of Mayor or on the Council, the remaining Council members shall elect another qualified person to serve for the remainder of that vacant seat's term; provided, however, that if a vacancy shall occur in the office of Council member, the unexpired term of which shall be for more than one (1) year, the Council shall elect another qualified person to serve only until the next annual election, at which time there shall be elected a suitable person to fill the remainder of the term of said office.

7.7. Compensation. The Council shall determine the compensation per meeting and emoluments of the Mayor and Council by ordinance or policy. Members of Council, the Mayor and appointed officials shall receive reimbursements for actual and necessary expenses incurred when on official business as prescribed by ordinance or policy.

7.8. Reimbursement of Expenses. The Mayor and members of Council shall be reimbursed for their actual and necessary expenses while on City business which has been duly authorized by motion, resolution or order of Council.

8. Annual Report to the Electors of the City.

At the organizational meeting of the City Council held in June of each year, the City Council shall present an annual report concerning the business of the City for the past year, as well as plans for improvements contemplated to be made during the succeeding year. Due notice of the time and place of the presentation of the annual report shall be published in a newspaper of general circulation within the City at least ten (10) days prior thereto. The meeting shall be organized and conducted by the Mayor or his appointee and the Clerk of Council. No action taken at this meeting shall be binding on the Mayor and Council, the intent of this meeting being that it be a means of informing the electors of the business affairs of the City.

9. Meetings.

9.1. Regular Meetings. The City Council shall meet regularly not less than once each month, during the year. The time and place of each regular meeting shall be set by Council each year at their organizational meeting, but Council shall not hereby be prohibited from rescheduling such meetings from time to time during the year as need arises.

9.2. Special Meeting; Waiver of Notice. Special meetings shall be called by the Council Clerk upon the request of the Mayor, or upon the request of any four members of Council, stating the day, hour and place of the special meeting requested and the subject or subjects proposed to be considered thereat. Such notice to Council must be deposited in the U.S. mail in the main post office in the City at least 24 hours prior to the time set for such special meeting; provided, however, that a waiver of such notice, (written, telegraphic, facsimile, or recorded telephonic message) by all members of Council prior to or immediately upon the convening of such special meeting shall make the 24 hour written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time and for any purpose named in such waiver, if the waiver so states. Subject to the scope of the notice, the City Council shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Council has at a regular meeting.

9.3. Adjourned Meetings. The City Council may adjourn its meetings from time to time, stating the date, place, and time to which such meeting shall be reconvened.

9.4. Place of Meetings. In the absence of emergency or other compelling circumstances, no action may be taken by the City Council except at a duly convened regular or special meeting, held in the City of Harrington, Delaware.

10. Manner of Acting.

10.1. Rules of Procedure, Record of Proceedings. The City Council may determine its own rules of procedure and order of business. It shall keep a record of its proceedings. The yeas and nays shall be taken upon the passage of every ordinance and resolution and entered, together with the text of the ordinance or resolution upon the Journal of the proceedings of the Council. Any member of the Council who is present at a meeting and who does not vote or who abstains from voting on any ordinance, resolution, or order shall state his reasons for not voting or for abstaining. The Journal shall be deemed conclusive evidence of the facts stated herein.

10.2. Ordinances. The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated. In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which: (a) Adopt, repeal or amend an administrative code, or establish or abolish any City department, office, or agency; (b) Provide for a fine or other penalty or establish a rule of regulation for violation of which a fine or other penalty may

be imposed; (c) Grant, renew or extend a franchise; (d) Amend or repeal any ordinance previously adopted. Acts other than those referred to in the preceding may be done either by ordinance or by resolution. Every ordinance shall be introduced in writing. Vote on any ordinance may be by voice vote or written vote and the vote of each Council member on any ordinance shall be entered on the record.

10.3. Quorum. A majority of the members elected to the City Council shall be physically present in order to constitute a quorum to conduct business, but if a lesser number be present at any regular or properly called special meeting, they may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by the majority of the entire Council.

10.4. Vote Necessary to Carry Action. In the performance of their duties, the acts, doings, and determinations of a majority of the City Council members present at any duly called meeting at which a quorum is present shall be as good as the acts, doings, and determinations of all the members of the Council.

11. Appointed Officers.

11.1. City Manager.

11.1.1. Appointment, Term. The Council shall appoint a City Manager who shall be the chief administrative officer of the City. He/she shall be appointed solely on the basis of his/her professional, executive, and administrative qualifications. He/she need not, when appointed, be a resident of the City or of the State of Delaware, but shall, within three (3) months of his/her employment, become domiciled within such radius of the City Hall as reasonably determined by Council at the time of his/her appointment. No member of Council shall, during the term for which elected, be appointed to act as City Manager. The City Manager shall be appointed for an indefinite term, but shall be removable at the pleasure of the Council. Before the City Manager may be removed he/she shall be given a written statement of the reasons alleged for his/her removal and shall be granted, if he/she demands in writing filed with Clerk of Council within five days after receiving the written notice of his removal, the right to be heard publicly thereon at a meeting of council, but pending and during such hearing the Council may suspend him/her from office under such terms and/or conditions as specified by Council. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council. In case of the absence, disability, or suspension of the City Manager, the Council may designate some other competent person to perform the duties of the office during such absence, disability or suspension. Any reference in any previously enacted ordinance to City Manager shall be construed as referring to the City Manager.

11.1.2. Vacancy from Office. In the event of a vacancy in the office of City Manager, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges and powers theretofore reposed in his predecessor or predecessors in office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.

11.1.3. Responsibilities Relating to City Employees. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his/her charge, and to that end, except as otherwise provided herein: He/she shall seek applications, interview applicants, select and recommend the applicant he/she feels most qualified for a position in the administrative services of the affairs of the City under his/her charge and present such application along with his/her recommendations on all applicants to the City Council or its designated Committee for their review and action. All such appointments shall be without definite term.

11.1.4. Removal of City Employees. Employees under the authority of the City Manager may be removed by him/her at any time. The employees shall have the right to appeal such dismissal per the Employee Handbook Grievance Procedure.

11.1.5. Council Not To Interfere. Except for the purposes of inquiry, the Council and its members shall deal with that portion of the administrative service for which the City Manager is responsible solely through the City Manager, and neither Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately; provided, however, in the event of any emergency, (i.e. storms, water leaks, sewer blockages, etc.), wherein the City Manager is not available or he/she requests assistance, the Mayor or any Council member may take charge and in so doing may give direct orders to any employee of the City until such time that the emergency situation is abated and whatever clean-up work necessitated completed.

11.1.6. Responsibility to Council. It shall be the duty of the City Manager to supervise the administration of the affairs of the City under his charge; to make such recommendations to the Council concerning the affairs of the City as may seem to him desirable, to keep Council advised of the future needs of the City, to prepare and submit to Council such reports as may be required by that body, and to perform such other duties as may be prescribed by this Charter or required of him/her by ordinances or resolution of Council.

11.1.7. Duties of City Manager. The City Manager shall have charge of the water and sewer systems of the City. He/she shall have charge of the supervision of the streets, gutters, curbs, and sidewalks of the City and of all work relating thereto. He/she shall have charge of the administration of all provisions of this Charter and ordinances and regulations of the Council relating to affairs of the City, when not otherwise provided for by this Charter or by ordinance or resolution of Council. He/she shall be ex-officio Collector of Taxes for the City. It shall be his/her duty to collect all water rents and fees for the tapping of water mains and sewers and all City revenues from any source whatsoever. He/she shall make such reports and at such times as the Council shall direct.

11.1.8. Bond. The Council may require the City Manager to give bond in such amount and such form and with such surety as the Council shall approve, said Bond to be paid by the City.

11.2. Clerk of Council. The Council Clerk shall keep a record of the proceedings of the Council and perform such other duties and have such powers as may be prescribed by ordinance or by this Charter. The City Manager shall not serve as Clerk of Council.

11.3. City Solicitor. At the annual meeting, the Council shall appoint a City Solicitor for the term of one year or until his successor has been duly chosen and qualified. The City Solicitor

may be removed during his term by a vote of three-fourths of the members elected to Council. The City Solicitor shall be a member in good standing of the Bar of the State of Delaware who shall have offices in Kent County and shall have practiced in the State of Delaware for at least three (3) years. He shall be the Chief Legal Advisor of and Attorney for the City. It shall be his duty, either personally (or by such assistants as he may designate), to attend meetings of Council as prescribed by Council, to give advice in writing and to perform other legal services as may be required of him by Council, the City Manager, or other designated officers of the City.

11.4. Alderman. (position deleted)

11.4.1. Jurisdiction. Jurisdiction over civil misdemeanors and fines is hereby remanded to J.P. Court.

11.5. Police Force.

11.5.1. Chief of Police; Police Officers. The Chief of Police shall be hired by the Council, in the same procedure as the City Manager and shall have authority over the Police Department. The subordinate members of the police force shall each be appointed by the City Council upon the recommendation of the Chief of Police for an indefinite term and may be removed for just cause by a majority vote of all the elected members of the City Council. The police force shall preserve peace and order and shall compel obedience within the City limits to the ordinances of the City and the laws of the State of Delaware. The police force shall have such other duties as the City Council shall from time to time prescribe. Operational control of the daily routine and responsibilities of the Police Force shall be the responsibility of the Chief of Police. The authority of the Chief of Police shall be subordinate and answerable to the Mayor and the City Council. The Council may, from time to time, make rules and regulations as may be necessary for the organization, government and control of the Police Force.

11.5.2. Power and Duties. Within the City limits of the City of Harrington and one mile beyond said limits, each member of the police force shall have all the police powers and authority of a State Peace Officer and shall be conservators of the peace; they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property; they shall compel the enforcement of all ordinances enacted by the City Council, and of all criminal laws and motor vehicle laws enacted by the State of Delaware; and they shall suppress riotous, disorderly or turbulent assemblages of persons in all public ways and places of the City, and upon view of the above or upon view of any violation of any ordinance of the City relating to the peace and good order thereof, the police force shall have the right and power to arrest without warrant. In the case of a pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of the City of Harrington to any part of the State of Delaware.

11.6. Other Officers, Employees, and Agents. The City Council may provide for the appointment or hiring of such other officers, employees and agents of the City, which it may deem proper and necessary, for the proper conduct and management of the City. Unless governed by the terms of a written contract, a written personnel policy, a written personnel classification or merit system, or a written grievance or disciplinary procedure duly adopted by the City Council, any such officers, employees and agents of the City, may be removed at any time, with or without cause, by the City Council at the pleasure of the City Council.

11.7. Compensation. The City Council shall, by ordinance, budget or resolution, fix the amount of any salaries or compensation for the employees, officers and agents of the City, provided that the Mayor and City Council members shall not be included under this subsection. No officer, employee or agent of the City shall in any form have, take, or receive from the City any compensation, in addition to the salary or compensation fixed by the City Council, except for reimbursement for actual and necessary expenses incurred by them in the performance of their duties, if such reimbursement be authorized and approved by motion, resolution or order of Council.

11.8. Personnel Records. The City Council shall cause to be kept a full and complete record of all officers appointed, and employees and agents hired by the City, containing the names of such officers, employees and agents, the dates of their employment, any salary or compensation to be by them received, the date of the termination of their services, and any other relevant personnel employment information.

12. Assessment for Taxes.

12.1. Adoption of Kent County Assessments. Unless the City Council shall make its own independent assessment and valuation, the City Council shall use the assessments of Kent County for any or all property located within the corporate limits of the City of Harrington, anything herein to the contrary notwithstanding. The assessed values established by Kent County for the then-current tax year shall be conclusive for purposes of levying City taxes, and the City Council shall have no authority to hear appeals (under § 12.5) regarding same. If the City Council elects to adopt the Kent County Assessments, only this section and § 12.4.2 (Additions to Tax Bills) shall have effect for that tax year; but the City Council shall have authority to consider appeals concerning any additions to tax bills under § 12.4.2 at any regular or special meeting. Council shall elect to adopt the Kent County Assessments no later than May 1 of each year.

12.2. Additions to Tax Bill. The City Council may annually, prior to the posting of the assessment list, by resolution, provide for the City Manager a list of any and all charges, costs or other assessment owed to the City, which list of charges incurred shall include, but not limited to, the following: water bond sinking fund assessments, sidewalk assessments, curb and gutter assessments, water assessments, weed and grass cutting bills, trash collection bills, past due water rents and/or past due charges for sanitary sewer service. Said amounts, when adopted and set forth by resolution of Council, shall be shown on the copies of the assessments posted pursuant to the provisions of § 12.5.1 of this Charter.

12.3. Assessment and Taxation of Gas Mains, Telephone, Telegraph, and Power Poles and Appurtenances. The Council shall have the right to levy and collect on gas mains, telephone, telegraph and power poles or other erections of like character within the limits of the City, together with wires and appliances thereto or thereon attached, and to this end may at anytime direct the same to be included in or added to the City assessment.

12.4. In the event that the mayor and council of the City of Harrington desire to collect and levy taxes on newly constructed property not taxed by virtue of the annual assessment, the City may enact an ordinance e to do so provided that: At the beginning of each quarter of each year, there shall be an increase in the valuation and assessment of all newly constructed real property within the city, locating each parcel of real property by street and number or other description. Property shall be deemed to be newly constructed when the city

permits occupancy and use (certificate of occupancy) or when new construction is being used or occupied for its intended purpose. The said valuation and assessment shall be made in accordance with the provisions set forth in section 12.1 of this Charter. The aforementioned assessment shall be during the months of January, April, July, and October of each year. Nothing in this section contained shall be deemed or held to invalidate or otherwise affect any assessment made prior to the approval of this section or any tax levied thereunder. All taxes shall be paid to the collector of taxes. Said taxes shall be paid within 30 days of billing and those taxes not paid shall accrue a penalty in the amount of one and one-half percent per month. For every tax that is not paid as prescribed herein, the tax collector shall have all the powers conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County. The council shall have the authority to allow errors and delinquents in the assessment.

13. Annual Budget; Determination of Revenue Needs and Sources.

13.1. Annual Budget. On or before the first day of May each year, the Budget Committee and the City Manager shall prepare and submit to the Council a budget, presenting a financial plan for conducting the affairs of the City for the ensuing fiscal year. The budget shall include the following information:

(a) A detailed statement showing the expenses of conducting each department and office of the City for the current year and last preceding year.

(b) A detailed estimate of the expenses of conducting each department and office of the City for the ensuing fiscal year with reasons for the increases and decreases recommended.

(c) The amount of the debt of the City together with a schedule of maturities of bond-issues.

(d) A statement showing the amount required for interest on the City debt and for paying off any bonds maturing during the year and the amount required for the sinking fund.

(e) An itemized statement of all anticipated income of the City with a comparative statement of the amounts received by the City from each of the same or similar sources for the past preceding and current fiscal year.

(f) Such other information as the City Manager may think desirable or as may be required by Council. The Council shall, on or before the thirtieth day of June in each year, adopt a budget for the succeeding fiscal year. The Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

13.2. Determination of Revenue Needs. On or before the first day of May of each year and after the valuation and assessment shall have been examined, revised, and completed and after the annual budget has been adopted, the City Council shall determine, in its best judgment and knowledge, the total amount necessary to be raised by the City to meet the fixed and anticipated expenses and obligations of the City, including reasonable and appropriate reserves, for the then current fiscal year as set forth in the City Budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies.

13.3. Determination of Revenue Sources. The City Council shall then proceed to determine, in its sole discretion, from which sources of the authorized revenues of the City the amount so determined by them shall be raised and, within the limits prescribed by this Charter with respect to any such source, the amount to be raised from each such source. They shall then proceed to determine, assess, fix and/or levy as follows:

13.3.1. Real Property Taxes. The rate of tax on real estate including improvements thereon per One Hundred Dollars ($100) of the assessed value; and/or

13.3.2. Utility Fixtures. The rate of tax upon all gas mains, poles, construction, erections, wires and appurtenances thereto; and/or

13.3.3. License Fees. The several license fees to be charged for carrying on or conducting any trade, businesses, professions or occupations carried on in the City; and/or

13.3.4. Municipal Services. The several rates to be charged for furnishing water service, sanitary sewer, trash collection; and/or other City services.

13.3.5. Other Services. The fees or rates to be charged in respect to any other authorized source or revenue sufficient in their judgment and estimation to realize the amount to be raised from each such source determined by them to be used as aforesaid, provided, however, that sources 13.3.3, 13.3.4, and 13.3.5 aforementioned may be determined, fixed assessed, levied and/or altered or changed upon other than a fiscal year basis at any regular or special meeting of the City Council as the City Council, in its discretion, shall determine.

14. Tax Levy; Tax Limit; Savings Clause.

14.1. Tax Levy. The setting of the tax rate pursuant to §§ 13.3.1 and 13.3.2: (a) shall constitute the levy of such taxes and charges in accordance with the assessment list (subject to any pending assessment appeals to the Superior Court) and (b) shall constitute the Council's direction and authorization to the City Manager to make collection, when due, of such taxes and charges. The City Council shall obtain a bond for the City Treasurer, City Manager and/or Bookkeeper as necessary, in form suitable to the City Council with sufficient surety, in favor of the City of Harrington, in a sum to be determined by the City Council conditioned upon the faithful discharge of the trust imposed in them and for the collection of all taxes committed to them, and for the payment of the amount of all such taxes, excepting only as far as the City Council shall make allowances for. The City Manager shall proceed to collect the same as hereinafter provided.

14.2. Tax Limit. The total amount of money to be raised by real property taxes (§ 13.3.1) and utility fixture taxes (§ 13.3.2) shall in no year exceed ten percent (10%) of the total assessed valuation of all taxable real estate (and improvements thereon) in the City; but added thereto shall also be fixed a rate which will produce an amount sufficient to provide for interest on bonds, the redemption thereof at their general maturities, and to cover the sinking fund requirements. A reasonable sum for delinquencies, discounts and cost of collection may be added by Council to the amounts aforesaid, together with any additional sum or sums authorized to be levied and collected as in this Section, shall be levied and collected by the Council on the property and persons assessed as aforesaid and in accordance with such assessment and according to rates established by the Council.

14.3. Savings Clause. Nothing contained in this Charter shall be construed to affect or impair in any way the validity of any tax, fee, assessment or other charge lawfully levied, assessed or due the City of Harrington made prior to the approval of this Charter and the same are hereby declared to be valid, binding and vested in the City of Harrington created hereby.

15. Collection of Taxes.

15.1. Collection by City Manager. The City Manager shall be responsible for the collection of taxes hereunder.

15.2. Lien. All taxes (and municipal charges) so laid or imposed by the City shall be and constitute a lien, for a period of ten (10) years from the date so levied, upon the real estate against which such taxes are laid and imposed. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so levied. Subject to the provisions of Chapter 29 of Title 25 of the Delaware Code, as it may from time to time hereafter be amended, or in accordance with the provisions of any future corresponding provisions of law, such lien shall have preference and priority to all other liens on such real estate as aforesaid, created or suffered by the said taxable, although such lien or liens be of a time and date prior to the time of the attaching of such lien for taxes.

15.3. Due Date; Discount for Early Payment. All taxes shall be due and payable at and from the time the real property tax rate is set under § 13.3.1. All taxes shall be paid to the City of Harrington. All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City of Harrington, in federally-insured banking institutions approved by the City Council.

15.4. Place of Payment. All taxes shall be payable at the City Office of the City of Harrington during the regular business hours of that office.

15.5. Penalty for Late Payment; Collection Fee. On all taxes paid on or after November 1st of each year, there shall be added and collected a penalty of two percent (2%) every month or fraction thereof such taxes shall remain unpaid, said penalty to be effective on the first day of October, and said penalty shall be collected in the same manner as the original amount of the tax. The City Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid a year and a day after due shall be considered delinquent. In effecting a collection of any delinquent tax, the City Council may impose a collection charge reasonably calculated to recover the costs of collection.

15.6. Collection of Delinquent Taxes. It shall be the duty of the City Manager to proceed forthwith to collect all taxes together with penalties and costs (all hereinafter "delinquent taxes") unpaid a year and a day after due. In the collection of said delinquent taxes, the City Manager of the City of Harrington shall have all of the powers and authority conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County as set forth in 9 Del.C. Ch. 87 as it may, from time to time hereafter, be amended, (or in accordance with any future corresponding provision of law). Except as otherwise expressly stated herein, the provisions of 25 Del. Laws, c. 29, as it may from time to time hereafter be amended, (or in accordance with any future corresponding provision of law) shall be deemed and held to apply to all taxes levied and imposed under the provisions of this Charter.

16. Borrowing Powers.

16.1. Short-Term Borrowings by City Council Without Voter Approval, Revenue Anticipation Loans. The City Council shall have the power to borrow money on the full faith and credit of the City, without approval of the voters and without regard to the provisions of Section 16.2 or 16.3 of this Charter, such sum or sums not exceeding in the aggregate ~~five hundred thousand dollars ($500,000.00)~~ a sum equal to five percent (5%) of the total assessed value of all non-tax-exempt real property situated within the bounds of the City of Harrington as such boundaries shall from time to time appear for general purposes when, in the opinion of a majority of the entire City Council, the needs of the City require it; provided, however, that any new borrowings under this Section 16.1 made after the effective date of this act shall, by their terms, be repayable in full within ~~five (5)~~ ten (10) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the City Council duly authorized by Resolution of the City Council and signed by the Mayor and attested by the Clerk of the City Council with the municipal seal affixed. No Council member nor the Mayor shall be personally liable for the payment of any such note or any other evidence of indebtedness because it is signed by him as a Council member or as Mayor, provided that he is so authorized by Resolution of City Council. Such notes or evidences of indebtedness and the interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions (including any county or municipal government). Any sum(s) of money borrowed on the full faith and credit of the City shall be paid from the general funds of the City. The aggregate amount of outstanding principal from any such borrowing or borrowings under this § 16.1 shall at no time exceed ~~five hundred thousand dollars ($500,000.00)~~ a sum equal to five percent (5%) of the total assessed value of all non-tax-exempt real property situated within the bounds of the City of Harrington as such boundaries shall from time to time appear.

16.2. Long-Term Borrowings for Certain Projects Without Voter Approval; Public Hearing and Super-Majority Vote of City Council Required.

16.2.1. Limit on Borrowing and Aggregate Indebtedness without Voter Approval; Super-Majority Vote. Subject to the provisions of this Section 16.2.1, the City Council shall have the power to borrow money on the full faith and credit of the City for the payment of principal thereof and interest due thereon, without approval of the voters and without regard to the provisions of Section 16.3 of this Charter, such sum or sums not exceeding in the aggregate a sum equal to three and one half percent (3.5%) of the total assessed value of all non-tax-exempt real property situated within the bounds of the City of Harrington as such boundaries shall from time to time appear, for those specific municipal purposes specified in Section 16.2.3, when, in the opinion of at least five (5) members of the City Council, the needs of the City require it; provided, however, that any new borrowings under Section 16.2 made after the effective date of this Act, shall, by their terms, be repayable in full within thirty (30) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the Mayor and Council duly authorized by Resolution adopted by at least five (5) members of the City Council and signed by the Mayor and attested by the Clerk of Council with the town seal affixed. Any sum(s) of money borrowed on the full faith and credit of the City shall be paid from the general funds of the City.

16.2.2. Procedure: Notice, Hearing. In order to proceed under the power granted in Section 16.2, the City Council shall authorize such borrowing in the following manner:

(a) The Mayor and Council by Resolution shall give notice to the residents and property owners of the City that the City Council propose to borrow a sum of money, not to exceed a stated amount, for a stated municipal purpose authorized under Section 16.2.3. The resolution shall state the amount of money desired to be borrowed (which may be stated as a "not to exceed" amount), the purpose for which it is desired, the manner of securing same, and such other facts relating to the loan which are deemed pertinent by the City Council and in their possession at the time of the passage of the Resolution; and shall fix a time, date, and place for a public hearing on the said resolution.

(b) Notice of Public Hearing on Resolution Authorizing Borrowing Required.

(1) Notice of the time, date, and place of the hearing on the resolution authorizing said loan shall be published in a newspaper of general circulation in the City not less than ten (10) days, nor more than twenty (20) days, prior to the date set for the public hearing. In addition to the time, date, and place of the public hearing, such notices shall contain the same information as required under Section 16.2.2(a) above.

(2) In addition to publication as herein provided, the City Council shall, not less than ten (10) nor more than twenty (20) days prior to the date set for the hearing, cause a public notice containing the information required above to be posted in at least five (5) public places in the City. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

(c) If, at any time following the public hearing, the City Council determines to proceed with the proposed borrowing, it shall pass a second Resolution, by the affirmative vote of at least five (5) members of the City Council, to proceed with the proposed borrowing.

16.2.3. Municipal Purposes for Which the City Council May Make Long-Term Borrowings Without Voter Approval. The power and authority of the City Council to incur long-term indebtedness on the full faith and credit of the City without voter approval under Section 16.2 shall be limited to the following:

(a) Erecting, enlarging, repairing, or replacing any plant, building, structure, machinery, or equipment for the production, treatment, collection storage, supply, distribution of water, sanitary sewage, or storm waters, or any of them, and the condemning or purchasing of any lands, easements, and rights-of-way which may be required therefore.

(b) Laying out, constructing, paving, widening, or extending streets, lanes, alleys, and public ways, curbs, and gutters, including storm sewers along the same, and the condemning or purchasing of lands, easements, or rights-of-way which may be required therefore.

(c) Erecting, enlarging, repairing, or replacing any municipal building including, by way of example, a Town Hall, a Police Department Building, a municipal warehouse, and the condemning or purchasing of lands, easements, or rights-of-way which may be required therefore.

(d) Paying all expenses deemed necessary by the Mayor and Council for the issuance of said bonds or certificates of indebtedness, including bond discount and legal expense of bond counsel.

16.23. Long-Term Borrowings, Voter Approval Required. In addition to other borrowing powers granted to the City under this Charter or by special act, the City Council shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or certificates of indebtedness to secure the repayment thereof, on the full faith and credit of the City, or such other security or securities as the City Council shall elect, for the payment of principal thereof and interest due thereon.

16.23.1. Proper Municipal Purpose. By way of illustration and not in limitation, "any proper municipal purpose" includes, but is not limited to: (a) refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein, (b) erecting, extending, enlarging, maintaining, or repairing any plant, building, machinery, or equipment for the handling, production, manufacture, supply, treatment or distribution of gas, water, electricity, sanitary sewer, or stormwater drainage system, or any of them, and the condemning or purchasing of any lands, easements, and rights-of-way which may be required therefore, (c) constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, sidewalks, curbing and/or gutters, including stormwater sewers, along the same, and the condemning or purchasing of lands, easements or rights of ways which may be required therefor, (d) defraying the costs to the City of any other municipal improvement provided for or authorized or implied by the provisions of this Charter (e) paying all expenses deemed necessary by the City Council for the issuance of said bonds or certificates of indebtedness, including bond discount and legal expenses of bond counsel.

16.23.2. Exempt From Taxation. All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City pursuant to the provisions of this section, and the interest thereon, shall be exempt from all taxation by the State of Delaware, its agencies, and political subdivisions (including any County or municipal government).

16.23.3. Limit of Aggregate Long-Term Indebtedness. The aggregate of the amount so borrowed together with all other bonded indebtedness for which the full faith and credit of the City of Harrington has been pledged shall not at any time exceed a sum equal to ~~fifteen percent (15%)~~ twenty-five percent (25%) of the total assessed value of all non-tax-exempt real property situated within the bounds of the City of Harrington as such boundaries shall from time to time appear.

16.23.4. Procedure: Notice, Hearing, Election. In order to proceed under the power granted in this section, the City Council shall authorize such borrowing in the following manner:

(a) The City Council shall by resolution, give notice to the residents and property owners of the City that the City Council proposes to borrow a sum of money, not to

exceed a stated amount, for a stated municipal purpose. The resolution shall state the amount of money desired to be borrowed (which may be stated as a "not to exceed" amount), the purpose for which it is desired, the manner of securing same, and such other facts relating to the loan which are deemed pertinent by the City Council and in their possession at the time of the passage of the Resolution; and they shall fix a time, date and place for a hearing on the said resolution. Where the City Council is proposing to borrow money for several distinct purposes, the resolution shall identify each such purpose and the amount desired to be borrowed as to each.

(b) Notice of Public Hearing on Resolution Authorizing Borrowing Required.

(1) Notice of the time, date, and place of the hearing on the resolution authorizing said borrowing shall be published in a newspaper of general circulation in the City not less than ten (10) days, nor more than twenty (20) days, prior to the date set for the public hearing. In addition to the time, date, and place of the public hearing such notices shall contain the same information as required under § 16.~~23~~.4(a) above.

(2) In addition to publication as herein provided, the City Council shall, not less than ten (10) days nor more than twenty (20) days prior to the date set for the hearing, cause a public notice containing the information required above to be posted in at least five (5) public places in the City. In the event the publications and/or postings do not appear on the same date, the date of the last publication shall control.

(c) If, at any time following the public hearing, the City Council determines to proceed with the proposed borrowing, it shall pass a second resolution ordering a special election to be held, upon not less than twenty-one (21) nor more than sixty (60) days public notice, for the purpose of voting for or against the proposed borrowing. The passage of the second Resolution shall ipso facto be considered a determination by the City Council to proceed with the matter in issue; provided however, that the City Council may, at any time subsequent thereto, and based upon a significant change in the relevant circumstances, act by resolution passed by a majority of the entire Council to cancel the Special Election and abandon the proposed borrowing.

(d) Notice of Special Election Required.

(1) The notice of the time, date, and place of holding the said Special Election shall be printed in a newspaper of general circulation in the City, once a week for three successive weeks prior to the date set for the Special Election. In addition to the time, date and place of the election, such notice shall contain the same information as required under § 16.~~23~~.4(a).

(2) In addition to such publication as herein provided, the City Council shall, not less than twenty-one (21) days nor more than sixty (60) days before the date set for the election, cause public notice, containing the information set out in subsection (d)(1) above (using date of "posting" for date of "publication"), to be posted in at least three (3) public places in the City. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

(e) At such special election, any person who is entitled to vote in the regular municipal election if it were held on that day, shall be entitled to one vote. (For purposes of this section, "entitled to vote" shall include "registered to vote" if voter registration is required for the regular municipal election).

(f) Any Special Election held pursuant to the provisions of this section shall be conducted by voting machines, electronic voting systems, or printed ballots as permitted by law which shall have the following designation:

(1) For the proposed borrowing

(2) Against the proposed borrowing

In the event the City is proposing to borrow monies for several projects, the foregoing designation shall be set opposite each such project so as to allow the voter to cast his vote for or against each. The voter shall be instructed to mark the box for which he casts his vote.

(g) The Mayor, by and with the advice and consent of the majority of the City Council, shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened for a minimum of seven hours. Persons in the polling place at the time appointed for closing of the polls shall be entitled to vote.

(h) The Board of Special Election shall be the sole and final judges of the legality of the votes offered at such special election. It shall keep a true and accurate list of all persons voting. It shall count the votes for and against the proposed borrowing(s) and shall announce the result thereof. The Board of Special Election shall make a certificate under their hands of the number of votes cast for and against the proposed borrowing(s) and the number of void votes and shall deliver the same to the City Council which said certificate shall be retained by the City Council with the other papers of the City.

(i) If a majority of the votes cast at such special election shall be in favor of any such borrowing(s), the City Council shall proceed with the issuance of the said bonds or certificates of indebtedness; provided, however, that based upon a significant change in the relevant circumstances, the City Council may, at any time prior to entering into a binding agreement for the public or private sale of such bond(s) or evidence(s) of indebtedness, by resolution passed by a majority of the entire Council, abandon the proposed borrowing.

16.23.5. Form of Bonds. The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination, the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the City Council after said Special Election.

16.23.6. Public or Private Sale. The bonds may be sold at either public or private sale. If the bonds shall be offered for public sale they shall be sold to the best and most responsible bidder(s) therefore after advertisement in a manner to be prescribed by the City Council, for at least one (1) month before offering the same for sale.

16.23.7. Provision for Payment: Special Tax, Sinking Fund. The City Council shall provide for the payment of interest on and principal of the said bonds or certificates of indebtedness at the maturity or maturities thereof. The said City Council is authorized and empowered, at its discretion, to levy a special tax upon all the real estate within the City or only upon such real estate as is directly benefited by the improvements paid for by the proceeds of such borrowing to pay interest on said bonds and/or principal; and at the Council's discretion, to establish a sinking fund adequate to the redemption, at or before maturity, of all bonds or certificates of indebtedness which may be issued under the provisions of this Section; provided, that the amount to be raised under any special tax for this purpose shall not in any one year exceed a sum equal to five per centum of the total bonded indebtedness. The special tax provided for in this Section 16.23.7 shall be collected from the owners of real estate in the same manner as the other real property taxes levied by the said City Council are collected. Said City Council may also appropriate and set aside for such sinking fund so much of the general funds of the City as it may from time to time think advisable. The sinking fund provided for by this Section 16.23.7 shall be deposited in federally insured deposits in a bank, trust company, or other banking institution until such time as it may be needed for the redemption of the bonds.

16.23.8. Full Faith and Credit Unless Otherwise Stated. Unless any such bond(s) or certificate(s) of indebtedness shall provide otherwise, the full faith and credit of the City of Harrington shall be deemed to be pledged for the due payment of the bonds and the interest thereon issued under the provisions of this section when the same shall have been properly executed and delivered for value notwithstanding any other provision of this Charter.

16.23.9. Statute of Limitations, 60 Days. No action contesting any proceedings conducted, or action taken, by the City Council hereunder regarding the authorization of any bonds or certificates of indebtedness issued under this Section 16.23 shall be brought after the expiration of sixty (60) days from the publication of a notice in at least two newspapers, one of which shall be of general circulation in the City of Harrington and one which shall be of general circulation in the State of Delaware, which notice shall announce the following information:

(a) That the City Council has determined to borrow a certain sum or sums of money and to issue bonds or certificates of indebtedness therefor;

(b) That the proposal(s) has/have been approved by a majority of those casting votes at a special election in the City called for the purpose of voting for or against the borrowing;

(c) The amount(s) of money to be borrowed;

(d) The purpose(s) for which each amount is to be borrowed;

(e) That any person desiring to challenge the authorization of such bond(s) or certificate(s) of indebtedness must bring legal action within sixty (60) days from the date of publication of such notice or forever be barred from doing so;

(f) In addition to publication as herein provided, the City Council shall cause a public notice, containing the information set out in subsections (a) through (e) above (using

date of "posting") for date of "publication") to be posted in at least three (3) public places in the City. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

17. Financial Matters Generally.

17.1. Use of City Monies. The City Council shall have full power and authority to use the money in the Treasury of the City, or any portion thereof, from time to time, for the improvement, benefit, protection, ornamentation and best interests of the City, as Council may deem proper, and to use City money to accomplish and carry into effect all acts and things which it has power to do by virtue of the laws of Delaware, this Act and all lawful ordinances and resolutions of Council.

17.2. Designation of Fiscal Year. The fiscal year of the City shall begin the first day of July and shall end with the next succeeding thirtieth day of June.

17.3. Cash Disbursements and Report of Same to Council. No claim against the City shall be paid except on a warrant or check approved by the City Manager and approved and countersigned by the Mayor and/or Treasurer. The City Manager shall examine all payroll, bills and other claims and demands against the City and shall issue no warrant or check for payment, unless he finds that the claim is proper and in proper form and correctly computed. The City Manager shall, at one monthly meeting of Council, present a report showing in detail all bills and other claims for which warrants or checks were drawn the preceding month, with exception of payroll and payroll-related expenses.

17.4. Annual Audit. The City Council shall retain a certified public accountant to be the auditor of accounts of the City of Harrington. Annually by the month of October, it shall be the duty of the auditor to audit the books and accounts of the City and all its officers whose duty involves the collection, custody and payment of moneys to the City. The auditor shall, on or before expiration of one hundred twenty (120) days from the end of the fiscal year, annually make and deliver a detailed report of any and all accounts, records, and books by them examined and audited which report under his hand and seal shall be available for public inspection. Notice of the filing of the auditor's report shall be published at least once in a newspaper of general circulation in the City of Harrington within thirty (30) days of its receipt by the City Council. The auditor, in the performance of his duties, shall have access to all records and accounts of the offices of the City.

18. Planning; Subdivision and Land Development.

18.1. Planning. The City Council may appoint a City Planning and Zoning Commission in accordance with Chapter 7 of Title 22 of the Delaware Code (as it may hereafter be amended, or in accordance with any future corresponding provision of the law) for the development and beautification of the City, and prescribe its powers and duties, which may include administration of a Zoning Ordinance and a land subdivision ordinance and providing advice to City Council with regard to any proposed amendments or revisions to the City's Comprehensive Plan, Zoning Map, or Zoning Ordinance.

18.2. Power to Regulate. In order to provide for the orderly growth and development of the City, to promote the health, safety, prosperity, and general welfare of the present and future inhabitants of the City, to insure the conservation of property values and natural resources,

including the protection of the City's open lands, water resources, and recreational potential, and to afford adequate provision for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the City may regulate the subdivision of all land in the City. Such regulation may, through ordinance, include:

18.2.1. Varying procedures for insuring the processing of combining, partitioning, or land subdivision plans, within a reasonable period of time, relative to the number of lots or parcels and the extent of improvements required;

18.2.2. Procedures for insuring that the arrangement of the lots or parcels of land or improvements thereon shall conform to the existing zoning at the time of recordation and that streets, or rights-of-way, bordering or within subdivided land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate prospective traffic, that adequate easements or rights-of-way shall be provided for drainage and utilities, that reservations of areas designed for their use as public grounds shall be of suitable size and location for their designated uses, that sufficient and suitable monuments and signage shall be required, that land which might constitute a menace to safety, health or general welfare shall be made safe for the purpose for which it is subdivided, and that adequate provision for water supply is made;

18.2.3. Procedures for encouraging and promoting flexibility and ingenuity in the layout and design of subdivisions and land development, and for encouraging practices which are in accordance with contemporary and evolving principles of site planning and development.

18.2.4. Requiring, through dedication of land, money in lieu of land, 'impact fees' or otherwise, that those subject to such regulation provide, at their own expense, such municipal or public improvements (including enlargement, expansion, improvement, or enhancement of existing municipal or public improvements) which have a rational nexus to the proposed land subdivision, combining, or partitioning, including, by way of example and not in limitation, the paving of streets, installation of sidewalks, curbs, storm sewers; water lines, storage or treatment facilities; sanitary sewer lines, lift stations, or treatment plants; electric distribution lines; street signs; access roads; playgrounds, parks, and open areas. In imposing such requirements, the City may consider and take into account future as well as immediate needs, and potential as well as present population factors affecting the neighborhood in question.

18.2.5. Procedures for insuring that any improvements to be constructed on such lands are in compliance with all appropriate City ordinances and that the placement and location of such improvements will not have a significant negative impact on adjoining properties.

18.2.6. Procedures for securing financial guarantees from the developers of such lands to insure satisfactory completion of all such required improvements, which may include extending the term of such guarantee for a reasonable period of time (not exceeding three years) beyond the actual completion of such improvements by the developer or acceptance of such improvements by the City.

18.3. Recording Unapproved Plans; No Legal Force or Effect. In the event an ordinance of the City so provides, no plat, plot, or plan of land for the subdivision, partition, or combining of land within the City shall be received for filing or recording by the Recorder of Deeds in and

for Kent County unless and until such plat, plot, or plan shall have been approved by the City body so authorized to grant such approvals and the fact of such approvals shall have been endorsed in writing on such plan. Any such plat, plot, or plan recorded in violation of this section shall be of no legal force or effect.

19. Streets and Alleys; Power to Lay Out, Locate, Open, Widen, Alter, Close, Vacate or Abandon.

The City Council shall have the power and authority to lay out, locate, and open new streets or alleys, or to widen or alter existing streets or alleys, or parts thereof, and to close, vacate, or abandon existing or proposed streets or alleys or parts thereof, whenever the City Council shall deem it in the best interest of the City.

19.1. Initiation of Proceedings. The procedures set forth in this Charter to lay out, locate, open, widen, alter, close, vacate, or abandon a street or alley in the City of Harrington may be commenced by resolution of the City Council.

19.2. Resolution Proposing Change; Notice; Hearing. Any such resolution shall contain a description of the proposed change and shall fix a time, date, and place when the City Council shall sit to hear comments and objections concerning the proposal. At least twenty-one (21) days before the date set for such hearing, the resolution adopted by the City Council shall be printed in a newspaper having a general circulation in the City of Harrington and shall be posted in three (3) public places in the City.

19.3. Notice to Effected Property Owners. The City Council shall also cause Notice to be mailed, to the owner(s) of record of the real estate through, over, or abutting which such street or alley may run. If the address of the owner be unknown, a copy shall be delivered to any persons occupying the premises, or if none, posted thereon. Notice to effected property owners under this § 19.4 shall be provided at least twenty-one (21) days before the date set for the hearing. Notice to one joint owner shall constitute notice to all.

19.4. Hearing. At the time and place in the resolution, the City Council shall hear such residents or taxable's of the City or owners of the property affected thereby, as shall attend the hearing. After hearing all comments, the City Council shall, at said meeting, or at a subsequent date, as it may deem proper, by motion proceed with, or abandon, the proposed locating, laying out, widening, altering, closing, vacating, or abandoning of any street(s) or alley(s) or parts thereof contemplated in its aforementioned prior resolution.

19.5. Payment of Compensation. In every case where the City Council shall resolve to proceed with the plan contemplated, or a portion thereof, the City Council shall award just and reasonable compensation after two professional appraisals are averaged to any person or persons who will thereby be deprived of property by virtue of the execution of the plan so contemplated. Such compensation, if any be awarded, shall be paid by the Treasurer of the City, on a warrant drawn upon him by authority of the City Council aforesaid upon delivery of a good and sufficient deed conveying a fee simple title unto 'The City of Harrington' which title shall be clear and free of all liens and encumbrances. Notice of compensation shall be given to effected property owners as provided in § 19.4.

19.6. Property Owner's Right of Appeal. If the owner be dissatisfied with the amount of compensation or damages allowed by the City, as aforesaid, said property owner may, within

thirty (30) days after such notice, as aforesaid, was mailed, delivered, or posted on the property, appeal from the written notice of award of compensation or damages by depositing in the United States mail, written notice, by certified mail with return receipt requested and postage prepaid, to the Mayor of the City to the effect that he or she is dissatisfied with the amount of such compensation or damages. Upon receipt of such notice of appeal, the City Council may abandon the proposed opening, improvements, closing, vacation, or abandonment or proceed under Chapter 61 of Title 10 of the Delaware Code (as it may from time to time hereafter be amended, or in accordance with any future corresponding provision of law) to condemn such property or interest therein and pay just compensation therefor.

19.7. Disposal of Abandoned or Vacated Street Lands. Whenever the land comprehended or included in any street or part thereof vacated or abandoned under this section be owned by the City, the City Council may, in its discretion, sell such land at public or private sale and for such consideration as the City Council shall deem proper. The City Council shall have the right and power to convey to the purchaser or purchasers thereof, good and sufficient title thereto for whatever estate the City may have therein.

19.8. 'Street' Defined. For all purposes of this § 19, the word "street" shall be deemed and held to comprehend and include sidewalks, lanes, alleys, roadways, streets, or other highways.

20. Constructing, Paving, and Repairing of Streets, Curbs and/or Gutters.

The City Council shall have full power and authority to regrade, redress and otherwise repair and rebuild all existing streets, lanes, alleys, other public thoroughfares, and/or curbs and gutters, in the City and to construct, built, pave, and in any manner improve all new and existing streets, lanes, alleys, other public thoroughfares and/or curbs and gutters now open, or to be hereafter opened, for public use in the City, and in so doing, may employ such contractors, engineers, inspectors and others as the Council shall deem expedient. To this end the City Council shall have full power and authority to enter into contracts or agreements with the State Highway Department of the State of Delaware for the permanent maintenance, repair and up-keep of any street, lane, alley, roadway or other highway within the City limits. The City Council shall also have full power and authority to expend such part or parts of the money of the City, in the general fund of the City not otherwise budgeted, towards the carrying out of any powers and authorities granted unto the City Council under and by virtue of this Section of the Charter.

21. Sidewalks.

In the event that it becomes necessary or desirable for the City to level, grade, flag, reflag, curb or recurb, gutter or regutter, pave or repave, the sidewalks, of the City of Harrington or to repair or improve any sidewalk, the following procedure shall be followed:

21.1. Resolution. The City Council shall adopt a resolution stating that on a named day and at a named hour and place, the City Council will meet to consider the question of laying, installing or constructing new sidewalks, or the repair or replacement of particular sidewalks on a named street adjoining, along, or in front of the property of a named owner or owners and the assessment of the costs thereof against such owner or owners. The resolution shall be delivered personally or mailed, certified mail, return receipt requested, to the owner(s) of such property(s) as shown on the City's tax records at least fifteen (15) days prior to the

meeting. In the event the property is assessed to 'unknown owner', such notice shall be posted on the property. The City Council shall hold a public hearing pursuant to said resolution and thereat shall hear the aforesaid owner or owners of property and other residents of the City appearing on the question referred to in said resolution.

21.2. Determination to Proceed. After such public hearing, the City Council, either at said public hearing, or at a subsequent regular or special meeting, shall decide whether or not to proceed with the improvements referred to in said resolution, and if it shall determine to proceed, the City Council shall determine whether the whole or some specified portion of the cost of the improvement adjoining, along or in front of the property of the said owner or owners named in the aforesaid resolution shall be borne by said owner or owners. If said determination shall be that the whole or a specified proportion of said cost shall be borne by the said owner or owners, then and in that event, the said owner or owners shall be compelled to pay the whole or a specified proportion of costs, as the case may be. The amount to be paid by the owner of each parcel for their property affected shall be determined according to the lineal footage of their parcel(s) adjoining, along or in front of which the improvement or improvements were made.

21.3. Assessment and Collection of Costs; Lien. Whenever the laying, installing or constructing of new sidewalks or replacement or repair of existing sidewalks or all of them have been made, and the cost thereof ascertained, the City Council shall ascertain the amount that the owner or owners of each parcel of property shall pay as hereinbefore stated, and shall give written notice thereof to said owner or owners. If such owner or owners shall fail to pay the specified amount within sixty (60) days after the mailing of such notice, the same, together with interest and costs, may be collected by the same procedures as are set forth herein for the collection of taxes. The amount so assessed shall be and constitute a lien upon all the property adjoining, along or in front of which the said work was accomplished, and such liens shall have preference and priority over any other liens or encumbrances against said property for a period of ten years from the date of mailing of the notice, although such other lien or encumbrance be of a date prior to the time of the attaching of such liens for the improvements as provided hereunder.

21.4. Notice. Whenever written notice is required to be given to any 'owner' by this section 21, notice to one co-owner shall be notice to all. Notice shall be given by personal delivery or by mailing same, certified mail, return receipt requested, proper postage affixed, to said owner at his or her last known address as shown on the City's tax records; provided however, that the failure of any owner to actually receive such notice, (being returned as, among other reasons, 'unclaimed', 'refused to accept', 'moved, no forwarding address') shall not invalidate any action taken under this § 21.

21.5. Change in Ownership. The word 'owner' as used in this section shall be deemed to mean the freeholders or leaseholders of the property at the time of the resolution adopted under § 21.1, and any change in ownership thereafter shall not be deemed or held to affect any of the proceedings described in this section.

21.6. Construction Supervision, Standards. The City Council in exercising the authority granted by this section, may use such materials and substances and such methods of construction and may employ such contractors, engineers, inspectors and others as the City Council may deem expedient.

22. Other Special Assessments.

The City Council shall have the authority to levy and collect special assessments upon property in a limited and determinable area for the special benefits accruing to such property as a consequence of any municipal public work or improvements, and to provide for the payment of all, or any part, of the costs of the work, service or improvements out of the proceeds of such assessments.

22.1. Owner Defined, Change in Ownership. When the term 'owner' or 'owners' is used with respect to special assessments, it shall be deemed to mean the person or persons who owned the property in question at the time of the enactment of the assessment ordinance, and any change in ownership thereafter shall not be deemed to affect any of the steps or proceedings described in this Section with respect to special assessment.

22.2. Ordinances for Levy and Collection of Special Assessments. The Council shall also have the authority to enact ordinances which provide for the levy and collection of assessments, against property owners, for the cost of installation of sanitary sewers, storm sewers, water mains, streets, sidewalks, streetlights, curbs, gutters, and other public improvements. Such ordinances shall prescribe the following:

A. The basis to determine the amount which shall be assessed upon the properties abutting the public work or improvements.

B. What portion of corner properties shall be considered frontage and what portion side frontage.

C. Payment provisions providing for payment in installments, except that assessment for current services or service connections shall be payable within one year; and

D. Rules under which individual appeals shall be heard.

All special assessments and all water and sewer service charges shall be liens and shall be entered in the Municipal Lien Docket as liens. The Council may provide for the payment of special assessments for whatever purpose levied by installments, but assessments for permanent improvements shall be paid in annual or more frequent installments, and assessments for current services shall be payable within one (1) years.

22.3. Municipal Lien Docket. A docket known as the 'City of Harrington Municipal Lien Docket' shall be prepared and maintained by the City Manager. The docket shall be in substantially the same form as the judgment docket for Kent County, shall contain all liens for municipal improvements for which special assessments are levied, and shall contain an index according to the name of the owner against whom such lien has been assessed. No municipal lien shall be valid after January 1, 1992 unless it is duly recorded in said docket. All liens so recorded shall continue in full force and effect until said assessment and accrued costs have been paid in full. Upon payment in full of the amount of the assessment and accrued costs, it shall be the duty of the City Manager to enter forth upon the docket, the date of final payment and the words 'satisfied in full'.

23. Drainage.

The City shall have the full jurisdiction and control, within the limits of the City, of the drainage of all water thereof, together with the right to alter and change the course and direction of any of the natural watercourses, runs and rivulets within the limits of the City and may pass ordinances for the opening of gutters, storm sewers and underground drains within the limits of the City. The City shall also have full power to regulate, maintain, clean and keep the natural watercourses, runs and rivulets within the City limits open and clean and unobstructed and for that purpose may authorize the entry upon private lands and take, condemn and occupy the same in accordance with the procedures set forth in Chapter 61 of Title 10 of the Delaware Code by like proceedings the City shall also have the power and authority to enter upon private lands and take, condemn and occupy the same for the purpose of laying-down gutters, storm sewers and underground water drains, or any of them, within the City limits.

24. Water System.

The City shall have full power and authority to provide an ample supply of potable water for the City and the inhabitants thereof. To this end, it shall have full power and authority to purchase, acquire by grant or gift, lease, erect, construct, maintain, operate, extend, enlarge, re-new, replace and control wells, reservoirs, pumping machines and stations, tanks, standpipes, water mains, fire hydrants and all other instruments for the collection, storage, purification, conveyance and distribution of water, over, on, under or through the lands controlled by the City or belonging to any private individual(s). The City Council shall have power to enact ordinances, rules and regulations in regard to the use for public or private purposes of water furnished by the City; the amounts to be paid by the users thereof; the means or methods whereby the same shall be collected; the fixing of fines, or penalties, or both, for any willful or negligent injury or damage to or interference with the water system or equipment of the City. The City Council may, at its option, furnish water from the City system to places and properties outside the City limits and upon special terms, charges and conditions as it shall deem beneficial to the City The City Council shall have the power to make contracts for the purchase of water and to distribute the same to users within or without the said City with the same full powers as if such water had been initially produced or reduced to usefulness by the City itself. The City Council shall have the power to enter contracts for the sale of water outside the limits of the City upon such terms and conditions as the City Council shall, in the exercise of its sound discretion deem to be advantageous to the City; and also to enter into mutual aid agreements with other water suppliers conducting operations near the limits of the City upon such terms and conditions as City Council shall deem best. The City Council shall have power to enact ordinances granting franchises for such term or terms of years as shall seem wise to the City Council to use the present or future streets, squares, alleys, and lanes of the City for the purpose of furnishing water to the City and to the persons, firms or corporations residing therein, and for the purpose of transmitting the same, or any, or all of them, through, over, across or under said streets, squares, alleys, and lanes to points outside the City limits, any such franchise or franchises, to contain such restrictions, conditions, and stipulations as the said City Council shall deem advantageous to the City. The City may, by condemnation proceedings, take private land and property, or the right to use private land and property, under, over, or on the surface thereof, for the proper furnishing of an ample supply of potable water or the creation, construction, extension, maintenance of a proper water system, or the distribution thereof as above provided. The proceedings by condemnation under this Section shall be the same as

prescribed by Section Chapter 61 of Title 10 of the Code of Delaware as it may from time to time hereafter be amended or in accordance with any future corresponding provision of law.

25. Sewer System.

The Council shall have superintendence and supervision of the sewers and the sewage system of the City. They shall have power to install any or additional sewers in the City. The Council may take condemnation proceedings for sewer purposes, private land or the right to use private land under the surface thereof, for the laying of sewer mains. The proceedings by condemnation under this Section shall be in accordance with Chapter 61 of Title 10 of the Code of Delaware as it may from time to time hereafter be amended or in accordance with any future corresponding provision of law. The Council shall have power to make all ordinances, rules and regulations regarding the sewers and sewer systems of the City and the use thereof, and may fix fines and penalties for the violation of the provisions of such ordinances. The Council may require any property to be connected with the water and sewer mains and to compel the owner of such property to pay the cost of such connection and the tapping thereof shall be under the regulation and control of Council. The Council may extend the sewer system of the City to places outside of the City limits upon such terms, charges and conditions as it shall determine. The Council is hereby authorized to impose a charge or rent for the use of that sewer system of the City, both within and without the limits of the City and in addition to the connection or tapping charge.

26. Solid Waste and Sewage Disposal.

The Council shall have power to provide for the incineration and other sanitary disposal of litter, debris, refuse, garbage and sewage. The Council shall have power to adopt ordinances, rules and regulations in regard to solid waste and sewage disposal and set the amount to be paid by the users thereof.

27. Contracts.

The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or for purchases for the City, provided, however that:

A. No contract shall be made by Council for any purpose, the contract price of which is in excess of $50,000.00 without public competitive bidding;

B. The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any reason it deems advantageous to the City.

C. All formal contracts shall be signed by the Mayor with the seal of the City affixed and attested by the Clerk of the Council.

28. Actions or Suits; Notice of Claim.

No action, suit, or proceeding shall be brought or maintained against the City of Harrington, its officers (including the members of any board, commission, or agency), employees, or agents, whether now, hereafter, or previously serving as such, and no judgment, damages, penalties, costs, or other money entitlement shall be awarded or assessed against the City,

its officers, (including the members of any board, commission, or agency) employees or agents, whether now, hereafter or previously serving as such, in any civil suit or proceeding at law or in equity, or before any administrative tribunal, arising out of, connected with, or on account of any physical injury or injuries, death, or any other type of personal injury, (including libel or slander), or injury to property (whether real or personal) unless the person by or on behalf of whom such claim or demand is asserted, within one year from the happening of the incident giving rise to such injury shall notify the City of Harrington in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Mayor of the City of Harrington by certified mail with return receipt requested and postage prepaid.

29. Compendium.

It shall be the duty of the City Council, at reasonable intervals, to compile the ordinances, current regulations, orders and rules of the City of Harrington. The City Council shall have a reasonable number of copies printed for the use of the officials of the City and for public information. From time to time, upon enactment of new ordinances, current rules and regulations, or upon the enactment of amendments to same, the City Council shall enroll the same in the minutes of the City Council and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish the members of the City Council of the City of Harrington copies thereof as they are enacted and therefrom may cause supplements to be compiled and printed to any compendium thereof theretofore printed as above provided.

30. Repealer.

All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter shall be and the same are hereby repealed to the extent of any such inconsistency.

31. Survival of Powers and Validating Section.

31.1. All powers conferred upon or vested in the City Council of the City of Harrington by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the City of Harrington and/or the City Council of Harrington precisely as if each of said powers was expressly set forth in this Charter.

31.2. All ordinances, resolutions, orders, policies, and regulations adopted by the City Council of The City of Harrington and in force at the time of approval and effective date of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the City Council of Harrington under the provisions of this Charter.

31.3. All of the acts and doings of the City Council of Harrington or of any official, or of the Mayor, or the City which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the City of Harrington or under any provision of any prior Charter of the City of Harrington, prior to the approval and effective date of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

31.4. All taxes, debts, assessments, license fees, penalties, fines, forfeitures, and other charges due to the City of Harrington shall be and remain due to the City of Harrington and all

debts due from the City of Harrington shall be deemed to be debts of the City of Harrington, and the same shall remain unimpaired until paid.

31.5. All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the City of Harrington.

31.6. The bonds given by or on account of any official of the City of Harrington shall not be impaired or affected by the provisions of this Charter.

31.7. The Mayor and each member of the City Council, and any other appointed City official who holds office at the time of approval of this Act shall continue to serve until the expiration of his term of office.

31.8. All rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office, or agency appropriate under this Charter.

32. Separability.

If any provision, section, sub-section, paragraph, sentence, or clause of this Charter shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions, sections, sub-sections, paragraphs, sentences or clauses of this Charter.

33. Public Act.

This Charter shall be taken as and deemed to be a Public Act of the State of Delaware.

34. Effective Date.

This Act shall take effect upon its enactment into law.