

CHAPTER 262
FORMERLY
HOUSE BILL NO. 388

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

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

Section 1. Amend Section 3, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(a) Town Council and Mayor

The Government of the Town of Bowers and the exercise of all powers conferred by this Charter except as otherwise provided herein shall be vested in a Town Council, consisting of four members and a Mayor, to be chosen for two year terms as hereinafter provided. They shall serve without compensation. Each Council member and the Mayor shall be at least the age of eighteen years and at the time of the election and during the term of office reside within the Town. The word reside shall mean domicile. The Mayor shall have all the powers of councilman and whenever the word "council" is used herein it shall include the Mayor. If at any time during the terms of the said councilmen they fail to comply with the aforesaid residence requirements, they shall ipso facto vacate their office. The Town Council, by majority vote of its disinterested members, shall be the sole and final judge of the qualifications of its members.

Section 2. Amend Section 5, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

Section 5. Election notices; filing deadline

(a) Notice of solicitation of candidates shall be posted conspicuously within the Town at least twenty (20) days prior to the filing deadline to run for the offices up for election and shall include the terms of the offices up for election, the qualifications to run for each office, and the filing procedures and deadline to run for office. All notices shall be sent to the Department of Elections within three (3) business days of posting the same and shall be posted on any website operated by the Town.

(b) In order to be listed on the ballot at any regular Town election, each candidate shall file a written and signed notice of intention to seek office with the Town, on a form prescribed by the Town, before five o'clock in the afternoon on the last Friday in June. Such form shall identify the office the candidate is running for and shall contain a signed statement that the candidate meets all the qualifications for office. No later than one (1) business day following the filing deadline, the Town shall submit the names of the candidates for each office up for election to the Delaware Department of Elections. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the notice of solicitation of candidates.

(c) The Council Secretary shall review all notices of intention to seek office for compliance with the qualifications for office, and if the Council Secretary determines that any candidate may not meet the qualifications for office, the prospective candidate shall be notified of such and a special meeting of the Town Council shall be called and held no fewer than twenty-one days prior to the date set for the election, at which the Town Council shall

decide the matter. The candidate whose qualifications are at issue shall be notified, by registered mail, of the date, time and place of the hearing, at which he/she may appear and testify. If the Town Council determines that the candidate does not meet the qualifications for office, it shall reject his/her notice of intention to seek office and his/her name shall not appear on the ballot. In making the determination, only those members of the Town Council who are not competing for that seat shall be entitled to vote on the question.

(d) All candidates shall file a certificate of intention or statement of organization if either is applicable and required under 15 Del. C. Ch. 75 ("Municipal Elections") as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law.

(e) Notice of elections shall be posted in a conspicuous public place within the town no later than twenty (20) days prior to the election date. The notice of elections shall include the date, time, and place of the election, the names of the candidates for each office, and the qualifications to vote. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the notice of elections. All notices shall be sent to the Department of Elections within three (3) business days of posting the same and shall be posted on any website operated by the Town.

Section 3. Amend Section 6, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(a) Election Date

Annual Town elections shall be held on the first Saturday in August at such place as shall be determined by the Council, with the polls remaining open for at least four (4) hours.

(b) Election Board

Every election shall be held under the supervision of a Board of Elections. The Board of Elections shall have an odd number of members consisting of no fewer than three (3) persons (as determined by the Town Council) who shall be qualified voters of the Town and shall not be an elected official or candidate for Town office or an immediate family member of such (mother, father, spouse, son, daughter, brother, sister, including half-brothers and sisters, step-family members and in-laws) and who shall be appointed for that purpose by the Town Council. The Board of Elections shall serve for a term of one year commencing at the meeting at which the Board is appointed, provided that the term of the Board of Elections shall in no instance expire until a successor Board of Elections has been appointed. Members of the Board of Elections may serve multiple terms. The Town Council may appoint one (1) or more individuals to serve as alternate Board of Elections members. Each board member shall be confirmed and have his/her name and contact information publicly posted in accordance with 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. The Town shall notify the State Election Commissioner and Department of Elections of the members appointed to the Board of Elections. If, at the opening of the polls, there shall not be present all the members of the Board of Elections, the ranking Town officer available at the opening of the polls shall appoint a qualified voter or voters to act as a member or members of the Board of Elections to fill such vacancies caused by the absence of the previously appointed member(s) of the Board of Elections through the conclusion of the election. Subject to any legal rights to appeal, members of the Board of Elections shall be the sole and final judges of the

conduct of the election and of the legality of the votes offered. The Board of Elections shall keep a list of all voters voting at said election. The Board of Elections shall have the power to subpoena persons, and officers of the Town, and books, records and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered. The Town Council may appoint election officers (including an inspector) when needed to administer elections. In the absence of the appointment of election officers by the Town Council at least fifteen (15) days prior to the election date, members of the Board of Elections shall either (i) act as election officers, designating one of the board members as the inspector, or (ii) appoint such number of election officers (including an inspector) as deemed necessary by the Board of Elections.

(c) Voter Qualifications. Any person shall be qualified to vote who, on the date of the election, is a United States citizen, has attained eighteen (18) years of age, and, for a period of not less than thirty (30) consecutive days immediately preceding the date of the election has been either: (a) a freeholder in the Town or (b) has been domiciled in the Town. For purposes of this Charter: (i) a 'freeholder' shall be deemed to include any natural person who holds title of record either in his/her own name or as trustee to a fee simple estate or to a life estate, in and to real property located within the Town boundaries; (ii) 'domiciled' shall mean physically residing in that place where a person has his/her true, fixed, and permanent home and principal establishment, and to which, whenever he or she is absent, that person has the intention of returning; provided, however, that absence from one's place of domicile for some temporary purpose shall not terminate that domicile so long as the intention to return to that place remains fixed, certain, and constant during the period of physical absence. These rules shall be construed in accordance with the principle of 'one-person-one vote'. When a voter is entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one vote; where a voter is entitled to vote by virtue of ownership of two or more properties in the Town, that voter shall be entitled to only one vote.

(d) Persons appearing to vote shall present proof of identity and address pursuant to 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. All questions regarding an individual's qualification to vote raised prior to the day of the election shall go before the Board of Elections, and an individual shall be given notice and an opportunity to be heard before the Board of Elections makes a determination regarding that individual's qualifications to vote. Questions regarding an individual's qualifications to vote that are raised at the time of voting shall be resolved by the Board of Elections or its designated election officers. The Town Council may enact such ordinances concerning the registration of qualified voters for municipal elections in the Town as it deems reasonably necessary to provide for the orderly and efficient conduct of municipal elections; provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor shall any such ordinances unduly impair the right to vote in a municipal election.

(e) Voting Machines. Elections shall be by voting machine provided by the Department of Elections in accordance with 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law.

(f) Conduct of Elections. The Town Council shall follow the rules governing the conduct of elections and voting procedures found in 15 Del. C. Ch. 75 (“Municipal Elections”), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the conduct of elections.

(g) Election Results; ties; preservation of ballots and records. Within forty-eight (48) hours of the close of the election, the Board of Elections shall count the votes, and the candidate(s) having the highest number of votes for each office shall be certified by the Board of Elections to be duly elected to such office. In the event of a tie vote for any office, the inspector, or in the absence of an inspector a member of the Board of Elections, shall break such tie by the toss of a coin. All ballots cast and all records of the election kept by the Board of Elections shall be preserved in the custody of the Board of Elections for a period of thirty (30) days, unless the election is contested or an appeal is filed in a court of appropriate jurisdiction in which case such ballots and records shall be preserved until further direction of the reviewing body or court having jurisdiction.

(h) Election Record Book. The Board of Elections shall enter in a book, to be provided for that purpose, the results of the election, containing the names of the persons elected. The members of the Board of Elections shall subscribe the same. The book, containing such matters, shall be preserved by the Town Council. Failure to keep such a book shall have no effect on the validity of an election.

(i) Uncontested Elections. In the event that the number of individuals filing or nominated for office is equal to or less than the number of seats up for election, those individuals who filed or were nominated shall be deemed to be elected for a full term and it shall not be necessary to have an election.

(j) Compliance with State Regulations. The Town shall act in accordance with the state laws governing municipal voting found in 15 Del. C. Ch. 75 (“Municipal Elections”), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law, and the Town shall implement the election provisions found in this Charter in accordance with the state laws governing municipal voting.

Section 4. Amend Section 7, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(a) Oaths; Officers

The Council at their first regular meeting or special meeting held at least seven (7) days following the certification of the annual election shall meet first for the purpose of organization and the newly elected officers shall assume the duties of their respective offices, being first duly sworn to perform their duties with fidelity, which oath shall be taken before a Notary Public, Justice of the Peace or by a holding over member of the Council. The Council shall select a Vice-Mayor, a Secretary and a Treasurer from their own number to serve until the next annual organization meeting. They also may choose an Assistant Secretary and an Assistant Treasurer outside their number to serve until the next annual organization meeting. The Assistant Secretary and Assistant Treasurer shall receive such compensation as may be set by Council. The Assistant Secretary and Assistant Treasurer may be the same person. The Vice-Mayor shall exercise the powers and duties of the Mayor in his absence or disability.

Section 5. Amend Section 8, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(a) Regular Meetings

The Town Council shall hold one regular meeting every month and such meeting shall be held on a day of the month and at a time and place within the corporate limits of the Town of Bowers as designated by the Council.

Section 6. Amend Section 9, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(a) Quorum

A majority of the members elected to the Council shall constitute a quorum, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by a majority of the entire Council. No ordinance, resolution, motion, order, or other act of the Town Council, except as herein specifically authorized, shall be valid unless it receives the affirmative vote of a majority of all members of the Town Council.

Section 7. Amend Section 13, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(a) Duties

The Treasurer shall be custodian of all the Town funds and shall deposit them in such banking institutions as may be designated by the Council. The Treasurer shall pay out no money except upon check or warrant countersigned by the Mayor or a member of Council and authorized by the Council. He shall keep a true, accurate and detailed account of all money received and of all money paid by him, and his books and accounts shall be open to the inspection of the Council at all times. He shall make such reports as required by the Council and shall file a bond with corporate surety with the Council for the faithful performance of his duties, in such form and for such amount as the Town Council shall direct. He shall have such other powers and perform such other duties as prescribed by this Charter and by the Council.

Section 8. Amend Section 15, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(a) Organization

The Council may appoint a Police Force, consisting of a Chief of Police and such number of subordinates as the Council may deem necessary. The Council shall from time to time make rules and regulations necessary for organization, government and control of the Police Force. The members of the Police Force shall be subject to the direction of the Town Council and may be removed by the Council at any time. They shall preserve peace and order, and shall compel obedience within the limits of the Town to the Town ordinances and State laws, and shall have such other duties as the Council from time to time, prescribe.

Section 9. Amend Section 16A, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(c) Recovery of Collection Expenses. Whenever it becomes necessary or expedient for the Town to take legal action to collect delinquent Town taxes, the Town is authorized to add to the delinquent taxes the expenses incurred by the Town in the collection of the delinquent taxes, including court costs, reasonable attorneys' fees, and other documented out-of-pocket expenses incurred by the Town, which expenses may be collected in the same manner as delinquent taxes.

Section 10. Amend Section 20, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(c) Contracts; franchises; permits; public places; peddlers

THE TOWN shall, in a like manner, have the power to prescribe the manner in which all contracts for performing work or furnishing materials for the Town shall be made and executed, to prescribe the manner in which corporations or persons shall exercise any privileges granted to them in the use of any street, avenue, highway, alley, beach or strand in said Town, or in digging up any street, avenue, highway, or alley, beach or strand for the purpose of laying down pipes, or for any purpose whatsoever, and to prohibit and prevent any such use or work at such times and seasons of the year as they may designate, to enter into contract or contracts with, or to grant franchises, concessions, or right to any person, firm, partnership or corporation who may apply for the use of any street, highway, avenue , lane, alley, beach or strand for the purpose of furnishing communication services, electric lights, power, gas, heat or water to said Town and its inhabitants, or for the constructions and operation of railways route, grant franchises to and enter into contract or contracts with other public carrier or for the construction and operation of sewer or other sanitary systems of drainage or for the erection of wharves or piers; to regulate, protect and improve the public places of every description in said Town; to prescribe and regulate the places of vending or exposing for sale of any and all articles of merchandise from wagons or other vehicles; to regulate the use of public parking areas in the Town .

Section 11. Amend Section 21, Chapter 279, Volume 53, Laws of Delaware, as amended, as follows:

(a) Generally

The Town Council may, by ordinance, define, prevent, abate, or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and to cause the costs of such abatement or removal to be paid by the legal entity or individual causing or permitting the same to exist, which costs may be collected in the same manner as delinquent Town taxes.

(b) The Town Council may adopt ordinances providing for the condemnation, upon inspection, of any building or structure in the Town which is determined, on the basis of standards set forth in such ordinance(s) to be a fire hazard or otherwise unsafe, and cause the same to be torn down or removed; and to cause the cost of such demolition and removal to be paid by the individual or legal entity causing or permitting the same to exist, which costs may be collected in the same manner as delinquent Town taxes.

Approved June 7, 2018