

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE BILL NO. 35

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SLAUGHTER BEACH.

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 150, Volume 69, Laws of Delaware, as amended, by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3 Town Council.

The Government of the Town and the exercise of all powers conferred by this Chapter except as otherwise provided therein shall be vested in and exercised by a Town Council composed of five members. They shall elect a Mayor, a Vice-Mayor, a Secretary, and a Treasurer from among their own number.

3.1 Qualifications. No person shall be eligible to serve as a member of the Town Council unless he or she:

3.1.1 is at least 21 years of age;

3.1.2 has not been convicted of a felony or any crime involving moral turpitude;

3.1.3 has, for a period of not less than ~~six consecutive months~~ one (1) year prior to the date of the election, been ~~either:~~

~~(a) a freeholder or~~

~~(b) domiciled in the Town as those terms are defined in §3.5 hereof.~~

~~3.1.4 is otherwise~~ qualified to vote in the Annual Town Election in accordance with §3.5.

3.2 Council to Act as Final Judge; Qualification an Ongoing Requirement. The Town 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. The qualifications to serve on Town Council shall be continuing qualifications to hold office and the failure of any member of the Town Council to have any of the qualifications required by this Section during his/her term of office shall create a vacancy in the office.

3.3 Term of Office. The term of office for each member of the Town Council shall be two years from the ~~first Monday following the election~~, the Organizational Meeting outlined in Section 4 or until his or her successor has been duly

30 elected and qualified. The present members of the Town Council of Slaughter Beach, and other officers appointed to serve,
31 in office under Chapter 37 volume 167, Laws of Delaware, as amended, shall continue to serve in office from and after the
32 effective date of this Charter, until their successors are duly elected or appointed. At the Annual Town Election in 1994,
33 three (3) persons shall be elected to the Town Council to replace those outgoing members of the Council whose terms
34 expire in 1994; and, at the Annual Town Election in 1995, two (2) persons shall be elected to replace those outgoing
35 members whose terms expire in 1995. Thereafter, two (2) members of the Town Council will be elected in odd years, and
36 three (3) members shall be elected in even years. _

37 ~~3.4 Notice of Elections; Nomination; Annual Election.~~ Solicitation of Candidates; Annual Town Meeting;
38 Election Date.

39 ~~3.4.1 Notice; Nomination.~~ ~~The Town Council shall be nominated as follows: The Town Council shall cause notice~~
40 ~~of the date of the annual election and the requirements and qualifications for election to the Town Council to be posted in at~~
41 ~~least three (3) public places in the Town and published in a newspaper of general circulation at least once not less than 30~~
42 ~~days before the Annual Town Meeting. Any person qualified to hold the office of Councilmember may register as a~~
43 ~~candidate for election to Town Council in that election. To register as a candidate for Councilmember, a person shall file a~~
44 ~~Certificate of Intent with the Mayor or Secretary, which certificate shall be in writing, signed by the candidate, and shall~~
45 ~~state his or her intention to be a candidate for election to Town Council in the next succeeding election. In addition, each~~
46 ~~certificate shall be endorsed by five persons qualified to vote in that election. Certificates of Intent shall be filed not sooner~~
47 ~~than sixty (60) days before, nor later than the adjournment of the Annual Town Meeting which shall be held on the second~~
48 ~~Saturday in June. No person shall be eligible to be elected unless duly registered and qualified according to this section.~~

49 3.4.1 Notice of solicitation of candidates shall be posted conspicuously within the municipality at least twenty (20)
50 days prior to the filing deadline for the offices up for election and shall include the terms of the offices up for election, the
51 qualifications to run for each office, and the filing procedures and deadline to run for office. All notices shall be sent to the
52 Department of Elections within three (3) business days of posting the same and shall be posted on any website operated by
53 the Town. In order to be listed on the ballot at any regular Town election, each candidate shall file a written and signed
54 notice of intention to seek office with the Mayor or Secretary, on a form prescribed by the Town, before five o'clock in the
55 afternoon on the Friday prior to the Annual Town Meeting, which shall be held the first Saturday in June. Such form shall
56 contain an affidavit that the candidate meets all the qualifications for office. No later than one (1) business day following
57 the filing deadline, the Town shall submit the names of candidates for each office up for election to the Delaware
58 Department of Elections. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the
59 provisions of this Charter or with controlling state or federal law, governing the notice of solicitation of candidates.

60 3.4.2 If the Council Secretary determines that any candidate may not meet the qualifications for office, the
61 prospective candidate shall be notified of such and a special meeting of the Town Council shall be called and held no fewer
62 than twenty-one days prior to the date set for the election, at which the Town Council shall decide the matter. The
63 candidate whose qualifications are at issue shall be notified, by registered mail, of the date, time and place of the hearing, at
64 which he/she may appear and testify. If the Town Council determines that the candidate does not meet the qualifications for
65 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
66 determination, only those members of the Town Council who are not competing for that seat shall be entitled to vote on the
67 question.

68 3.4.3 Filing Certificate of Intention and Statement of Organization. All candidates shall file a certificate of
69 intention or statement of organization if either is applicable and required under 15 Del. C. Ch. 75 ("Municipal Elections")
70 as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law.

71 ~~3.4.2~~ 3.4.4 Date. The Annual Election shall be held on the first Saturday in July of each year at such time and
72 place within the Town as shall be determined by the Town Council, with the polls remaining open for no fewer than four
73 (4) hours.

74 3.5 Voter Qualifications. Any person shall be qualified to vote who, on the date of the election, is a United States
75 citizen, has attained eighteen (18) years of age, and, for a period of not less than ~~four (4)~~ thirty (30) consecutive ~~months~~
76 days immediately preceding the date of the election has been either: (a) a freeholder in the Town or (b) has been domiciled
77 in the Town. For purposes of this Charter: (i) a 'freeholder' shall be deemed to include any natural person who holds title
78 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
79 within the Town boundaries; (ii) 'Domiciled' shall mean physically residing in that place where a person has his/her true,
80 fixed, and permanent home and principal establishment, and to which, whenever he or she is absent, that person has the
81 intention of returning; provided however, that absence from one's place of domicile for some temporary purpose shall not
82 terminate that domicile so long as the intention to return to that place remains fixed, certain, and constant during the period
83 of physical absence. These rules shall be construed in accordance with the principle of 'one-person-one vote'. When a
84 voter is entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one vote;
85 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
86 only one vote.

87 3.5.1 Persons appearing to vote shall present proof of identity and address pursuant to 15 Del. C. Ch. 75
88 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding
89 provisions of law. All questions regarding an individual's qualification to vote raised prior to the day of the election shall
90 go before the Board of Elections and an individual shall be given notice and an opportunity to be heard before the Board of
91 Elections makes a determination regarding that individual's qualifications to vote. Questions regarding an individual's
92 qualifications to vote that are raised at the time of voting shall be resolved by the Board of Elections or its designated
93 election officers. The Town Council may enact such ordinances concerning the registration of qualified voters for
94 municipal elections in the Town as it deems reasonably necessary to provide for the orderly and efficient conduct of
95 municipal elections; provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor
96 shall any such ordinances unduly impair the right to vote in a municipal election.

97 ~~3.6 Notice of Elections. At least ten (10) days prior to the day of the election, the Town Council shall cause to be~~
98 ~~posted notice thereof in at least three public places within the Town, which notice shall state the day, hours, and place of~~
99 ~~election, the number of Councilmembers to be elected, the names of the candidates, and the terms for which they are to be~~
100 ~~elected. In addition, notice containing the same information shall be published at least once in a newspaper of general~~
101 ~~circulation within the Town at least ten (10) days prior to the day of the election.~~

102 3.6 Notice of Elections. Notice of elections shall be posted in a conspicuous public place within the town no later
103 than twenty (20) days prior to the election date. The notice of elections shall include the date, time, and place of the
104 election, the names of the candidates for each office, and the qualifications to vote. The Town Council may, by ordinance
105 or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law,
106 governing the notice of elections. All notices shall be sent to the Department of Elections within three (3) business days of
107 posting the same and shall be posted on any website operated by the Town.

108 3.7 Voting Machines. Elections shall be by voting machine provided by the Department of Elections in
109 accordance with 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other
110 existing or future corresponding provisions of law.

111 ~~3.8 Election Results. Upon the close of the election, the votes shall be read and counted and the persons having the~~
112 ~~highest number of votes shall be declared, by the Election board, to be duly elected to such vacant offices as then exist, and~~
113 ~~such persons shall continue in office during the terms for which they were chosen, or until their successors are duly elected~~
114 ~~or appointed and qualified.~~

115 ~~3.9 Ties. In the event of a tie vote for any office, the Election Board shall determine such tie by lot.~~

116 ~~3.10 Preservation of Ballots and Records. All ballots cast and all records of the election kept by the~~

117 Election Board shall be preserved in the custody of the Election Board for a period of ten (10) days, unless an appeal is
118 filed in a court of appropriate jurisdiction.

119 3.8 Absentee Ballots. The Town Council may (but shall not be required to), by ordinance, provide for a qualified
120 voter (duly registered if required by ordinance) who shall be unable to appear in person, to cast his/her ballot at any
121 municipal election by absentee ballot. Whenever absentee voting is permitted, the Notice of Election and Notice of
122 Solicitation of Candidates shall contain information regarding how to obtain an absentee ballot and individuals shall be
123 qualified to vote by absentee ballot by virtue of being domiciled in a municipality other than Slaughter Beach or being
124 scheduled to work during the hours the polls are open or by satisfying one of the reasons to vote by absentee ballot as
125 outlined in 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other
126 existing or future corresponding provisions of law.

127 3.9 Conduct of Elections. The Town Council shall follow the rules governing the conduct of elections and voting
128 procedures found in 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any
129 other existing or future corresponding provisions of law. The Town Council may, by ordinance or resolution, adopt such
130 rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the conduct of
131 elections.

132 ~~3.7 Election Board. Every election shall be held under the supervision of an Election Board. The Election Board shall~~
133 ~~consist of one (1) Inspector of the Election and two (2) Judges of the Election. The Inspector and Judges constituting the~~
134 ~~Election Board shall be qualified voters of the Town and shall be appointed for that purpose by the Town Council at least~~
135 ~~twenty (20) days before such election. If, at the opening of the polls, there shall not be present the members of the Election~~
136 ~~Board, then in such case the ranking Town officer available at the opening of the polls shall appoint a qualified voter or~~
137 ~~voters to act as a member or members of the Election Board to fill such vacancies caused by the absence of members of the~~
138 ~~Election Board. Members of the Election Board shall be the sole and final judges of the conduct of the election and of the~~
139 ~~legality of the votes offered. The Election Board shall have the power to subpoena persons, and officers of the Town, and~~
140 ~~books, records and papers relative to the determination of the qualifications of voters and the legality of any vote or votes~~
141 ~~offered.~~

142 3.10 Board of Elections. Every election shall be held under the supervision of a Board of Elections. The Board of
143 Elections shall have an odd number of members consisting of no fewer than three (3) persons (as determined by the Town
144 Council) who shall be qualified voters of the Town and shall not be an elected official or candidate for Town office or an

145 immediate family member of such (mother, father, spouse, son, daughter, brother, sister, including half-brothers and sisters,
146 step-family members and in-laws) and who shall be appointed for that purpose by the Town Council at the Annual Meeting
147 held the first Saturday in June unless otherwise specified in an ordinance duly adopted by the Town. The Board of
148 Elections shall serve for a term of one year commencing at the Annual Meeting or such other meeting at which the Board
149 may be appointed, provided that the term of the Board of Elections shall in no instance expire until a successor Board of
150 Elections has been appointed. Members of the Board of Elections may serve for more than one term. The Town Council
151 may appoint one (1) or more individuals to serve as alternate Board of Elections members. Each board member shall be
152 confirmed and have his/her name and contact information publicly posted in accordance with 15 Del. C. Ch. 75
153 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding
154 provisions of law. The Town shall notify the State Election Commissioner and Department of Elections of the members
155 appointed to the Board of Elections. The Board of Elections shall oversee the absentee ballots and either appoints an odd
156 number of absentee ballot judges or, at the discretion of the Town Council, acts itself as the absentee ballot election judges.
157 If, at the opening of the polls, there shall not be present all the members of the Board of Elections, the ranking Town officer
158 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
159 Elections to fill such vacancies caused by the absence of the previously appointed member(s) of the Board of Elections
160 through the conclusion of the election. Subject to any legal rights to appeal, members of the Board of Elections shall be the
161 sole and final judges of the conduct of the election and of the legality of the votes offered. The Board of Elections shall
162 keep a list of all voters voting at said election. The Board of Elections shall have the power to subpoena persons, and
163 officers of the Town, and books, records and papers relative to the determination of the qualifications of voters and the
164 legality of any vote or votes offered. The Town Council may appoint election officers (including an inspector) when
165 needed to administer elections. In the absence of the appointment of election officers by the Town Council at least fifteen
166 (15) days prior to the election date, members of the Board of Elections shall either (i) act as election officers, designating
167 one of the board members as the inspector, or (ii) appoint such number of election officers (including an inspector) as
168 deemed necessary by the Board of Elections.

169 3.11 Election Results; ties; preservation of ballots and records. Within forty-eight (48) hours of the close of the
170 election, the Board of Elections shall count the votes, and the candidate(s) having the highest number of votes for each
171 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,
172 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
173 coin. All ballots cast and all records of the election kept by the Board of Elections shall be preserved in the custody of the
174 Board of Elections for a period of thirty (30) days, unless the election is contested or an appeal is filed in a court of

175 appropriate jurisdiction, in which case such ballots and records shall be preserved until further direction of the reviewing
176 body or court having jurisdiction.

177 3.412 Election Record Book. The Election Board shall enter in a book, to be provided for that purpose, the
178 results of the election, containing the names of the persons elected. The members of the Election Board shall subscribe the
179 same. The book, containing such matters, shall be preserved by the Town Council. Failure to keep such a book shall have
180 no effect on the validity of an election.

181 ~~3.13 Voter Registration; Absentee Ballots. The Town Council may, but shall not be required to, enact ordinances~~
182 ~~providing for the registration of qualified voters and/or the casting of absentee ballots.~~

183 3.4213 Uncontested Elections. ~~Where there is only one official candidate for each office, if none of the official~~
184 ~~candidates has a formal opponent on the day of election, the official candidates may assume office without the holding of a~~
185 ~~formal election.~~ In the event that the number of individuals filing or nominated for office is equal to or less than the
186 number of seats up for election, those individuals who filed or were nominated shall be deemed to be elected for a full term
187 and it shall not be necessary to have an election.

188 3.14 Compliance with State Regulations. The Town shall act in accordance with the state laws governing
189 municipal voting found in 15 Del. C. Ch. 75 (“Municipal Elections”), as it may be hereby amended from time to time, and
190 any other existing or future corresponding provisions of law, and the Town shall implement the election provisions found in
191 this Charter in accordance with the same state laws governing municipal voting.

192 Section 2. Amend Section 4, Chapter 150, Volume 69, Laws of Delaware, as amended, by making deletions as
193 shown by strike through and insertions as shown by underline as follows:

194 4. Organization of Town Council.

195 On the first Monday ~~following the annual election~~ that is at least seven (7) days following the certification of the
196 Annual Election, the Town Council shall meet and organize by the election of a Mayor, a Vice-Mayor, a Secretary, and a
197 Treasurer, all of whom shall be Town Councilmembers. Before entering upon the duties of the offices, the newly elected
198 Councilmembers shall be sworn in by a Notary Public or by a holdover member of the Town Council, to faithfully and
199 impartially perform their duties.

200 4.5.3 Public Notice Regarding Certain Actions. In addition to such other notice as may be required by this charter
201 or by general statute, the Town Council shall give at least ~~30~~15 days public notice to the taxpayers, property owners, and
202 voters of the Town prior to taking any of the following actions:

- 203 (a) approving any proposed amendment to the Town Charter;
- 204 (b) approving any change in the Town's real property tax rate;
- 205 (c) instituting any new tax on the citizens of the Town and/or their property;
- 206 (d) borrowing any money under §6.5 hereof;
- 207 ~~(e) conducting the Annual Town meeting and Town Election;~~
- 208 ~~(e)~~(f) adopting, amending or repealing any ordinance.

209 Notice under this section shall be provided by public posting in at least one public place in the Town ~~and by mailing copies~~
210 ~~of such notices by regular mail, (postage prepaid) to the taxpayers and property owners at their addresses as shown on the~~
211 ~~Town's tax records; and to non-property-owing residents at their last known address as provided to the Town. and on any~~
212 website operated by the Town. Nothing herein shall prohibit the Town Council from taking any action without such
213 advance public notice where such action is required by emergency or other exigency; but in such event, notice as herein
214 provided shall be given as soon as conveniently possible and in no event later than 15 days following the taking of such
215 action.

216 The Town Council may combine notice of any number of such proposed and/or previously taken actions in one notice
217 which may be included in the Town's Annual Newsletter if one exists.

218 SYNOPSIS

Section 1 updates the municipal election procedures to better conform to the Delaware Municipal Election Laws. Among other things, this section addresses and clarifies voter qualifications, election procedures and required notices, procedures for resolving challenges regarding voter qualifications, absentee ballot voting qualifications, procedures for establishing the Board of Elections, and the minimum polling hours.

Section 2 clarifies that newly elected members of Council cannot be sworn in until at least seven days have transpired from the date of the election certification and revises the notice procedures pertaining to different actions taken by the Town.

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AUTHOR: Sen. Simpson