



SPONSOR: Rep. Carson & Sen. Ennis
Reps. Brady, Paradee, Spiegelman

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 396

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SMYRNA

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

1 Section 1. Amend Section 7, Chapter 176, Volume 74, Laws of Delaware, as amended, by making insertions as
2 shown by underlining and deletions as shown by strike through as follows:

3 7.4.1 Appointment; Hiring.

4 (a) Boards and Commissions. Subject to Town Council confirmation, the Mayor shall recommend the
5 appointment of members to all Boards and Commissions in the Town of Smyrna, including, but not limited to, the
6 Board of Adjustment, Board of Elections, ~~Board of Assessment~~ and Planning and Zoning Commission. The Town
7 Council may provide for the appointment or hiring of such other officers and agents of the Town, which it may
8 deem proper and necessary, for the proper conduct and management of the Town, including by way of example
9 and not in limitation, a consulting engineer and financial auditor. Except as otherwise provided by written
10 agreement approved by the Town Council, or as provided elsewhere in this Charter or in any governing statute or
11 ordinance, such officers, agents, and board-members shall serve at the pleasure of the Town Council.

12 Section 2. Amend Section 9, Chapter 176, Volume 74, Laws of Delaware, as amended, by making insertions as
13 shown by underlining and deletions as shown by strike through as follows:

14 9.1 Alternate Methods for Establishing Annual Property Assessment.

15 In any year, the Town may establish the assessed value of all taxable real estate and improvements, and of all
16 taxable public utility fixtures, by one of the following two methods: (a) Local ~~Board of Assessment~~ Tax Assessor, or
17 (b) adoption of the appraised values implicit in the assessments as shown on the assessment lists prepared by Kent and
18 New Castle County.

19 9.2 Local ~~Board of Assessment~~ Tax Assessor.

20 9.2.1 Appointment; Annual Term. The Mayor may, with the advice and consent of a majority of the entire
21 Council, appoint ~~Board of Assessment composed of three (3) members, each of whom shall be domiciled within the~~
22 ~~corporate limits of the Town, and who shall serve~~ a qualified individual or entity to serve as a Tax Assessor for a one-
23 year term.

24 9.2.2 Oath, Duties, Compensation. ~~The Board of Assessment shall be sworn or affirmed by the Mayor of the~~
25 ~~Town of Smyrna, or by a Justice of the Peace, to perform their duties diligently, with fidelity and without favor, to the~~
26 ~~best of their ability, knowledge, and judgment.~~ It shall be the duty of the ~~Board of Assessment~~ Tax Assessor to make a
27 fair and impartial valuation and assessment of real property and improvements subject to taxation situate within the
28 limits of the Town of Smyrna at the true market value thereof, and to perform such other duties with reference thereto
29 as shall be prescribed from time to time by the Town Council. The compensation to be by them received for the
30 performance of their duties, and the hiring of consultants or employees to assist them in the performance of their
31 duties, shall be fixed by and subject to the approval of the Town Council.

32 9.2.3 Professional Appraisers to Assist. In addition to the appointed ~~Board of Assessment~~, Tax Assessor, it
33 shall be within the discretion of the Council to appoint ~~a professional appraiser to assist the Board of Assessment~~ any
34 professionals needed to assist the Tax Assessor in performing the duties of the office to which they were appointed, but
35 the ~~Board of Assessment~~ Tax Assessor shall in all instances be responsible for making the final determination.

36 Section 3. Amend Section 9, Chapter 176, Volume 74, Laws of Delaware, as amended, by making insertions as
37 shown by underlining and deletions as shown by strike through as follows:

38 9.4 Assessment Procedure By Town's ~~Board of Assessment~~ Tax Assessor

39 9.4.1 Making the Assessment.

40 (a) Annual Assessment. If appointed, the ~~Board of Assessment~~ Tax Assessor shall, prior to the first day of
41 March of each year, make a just, true and impartial annual valuation or assessment of all real estate and
42 improvements located within the Town of Smyrna. All real estate shall be described with sufficient particularity to
43 be identified. Real estate shall be assessed to the owner or owners if he, she, or they be known. If the owner or
44 owners of real estate cannot be found or ascertained, it may be assessed to 'Owner Unknown'. A mistake in the
45 name of the owner or owners or a wrong name or an assessment to 'Owner Unknown' shall not affect the validity
46 of the assessment of any municipal tax or assessment based thereon; provided, however, the assessment shall
47 specify the last record owner or owners thereof as the same shall appear from the records in the Office of the
48 Recorder of Deeds, in and for Kent or New Castle County.

49 (b) Supplemental Assessment. In addition to the annual assessment provided herein, the ~~Board of~~
50 ~~Assessment~~ Tax Assessor may, at the option of the Town Council, prepare quarterly supplemental assessments for
51 the purposes of: (1) adding property not already valued and included in the last assessment and (2) revising the
52 valuation and assessment of all real property which has undergone some significant change of condition as to
53 materially change the true market value thereof since the last assessment.

54 9.4.2 Assessment of ~~Members of Board of Assessment~~ Tax Assessor. The real property of the ~~members of the~~
55 ~~Board of Assessment~~ Tax Assessor shall be assessed by the Town Council of the Town of Smyrna and approved by the
56 affirmative vote of at least five (5) members of the Town Council.

57 9.4.3 Delivery of Assessment List. Prior to the first regular Town Council meeting in March, the ~~Board of~~
58 ~~Assessment~~ Tax Assessor, after making such annual assessment, shall deliver to the Town Council of the Town of
59 Smyrna a list containing the names of owners of all properties assessed and the amount of assessment against each.

60 9.5 Additions to Tax Bills. Whether utilizing the appraisals implicit in the Kent and New Castle County
61 Assessments or those prepared by the Town's own ~~Board of Assessment~~ Tax Assessor, the Town Manager shall
62 annually, prior to the posting of the assessment list, provide the Town Council a list of any and all charges, costs, or
63 other assessments owed to the Town, which list of charges incurred shall include, but not be limited to, the following:
64 sidewalk assessments, waterline assessments, water service charges, weed and grass cutting bills, sanitary sewer
65 service charges, trash collection bills, past due electric charges, costs for demolition or repair of any building or
66 structure in accordance with governing town ordinances, any charges incurred by the Town in bringing the property
67 into compliance with the Town Code and the amount of any unpaid penalty imposed by any court of competent
68 jurisdiction for violation of any municipal ordinance. Said amounts, when adopted and set forth by resolution of the
69 Mayor and Council, shall be shown on the copies of the assessments posted pursuant to the provisions of Section 9.7.1
70 of this Charter.

71 Section 4. Amend Section 9, Chapter 176, Volume 74, Laws of Delaware, as amended, by making insertions as
72 shown by underlining and deletions as shown by strike through as follows:

73 9.7 Assessment Appeals.

74 9.7.1 Posting of Annual Assessment List; Notice. Immediately upon receiving the annual assessment list from
75 the ~~Board of Assessment~~ Tax Assessor, the Town Council shall cause a full and complete copy of the same, containing
76 the amount assessed to each taxable, to be made available for public inspection at the Town Office, and there it shall
77 remain for a period of at least fourteen (14) days for the information of and examination by all concerned. Public notice
78 of the posting of the assessment list, and the date, place, and time where the Town Council will sit as a Board of
79 Revision and Appeal to hear appeals from the said assessment and to make such corrections and revisions as it deems
80 appropriate, including the procedures for appealing an assessment, shall be posted in at least five (5) public places in
81 the Town and published at least once in a newspaper of general circulation in the Town not less than 14 days prior to
82 the date set for the hearing of such appeals.

83 9.7.2 Appeals Day Annual Assessment List. The Council may direct that appeals from any annual assessment
84 be heard by a committee of no fewer than two (2) nor more than three (3) Council-members appointed by the Town
85 Council. The committee of Council-members shall sit at the stated place and time to hear the appeals of all taxpayers

dissatisfied with the assessment of their properties, shall collect such information as they consider proper and necessary, and, shall report their findings and recommendations, together with such other information as the Council shall permit or require, to the full Council at its next ensuing meeting, at which time the appeal of each dissatisfied taxpayer shall be heard. ~~At least one member of the Board of Assessment shall be present on the day and time fixed for hearing appeals and shall furnish to the Town Council such information and answer such questions as the Town Council may require in respect to any assessment for which an appeal has been taken. The Town Council shall have the authority to enforce the attendance of at least one member of the Board of Assessment by appropriate process.~~ On the day and time fixed for hearing appeals, the Tax Assessor shall be available to furnish to the Town Council such information and answer such questions as the Town Council may require with respect to any assessment for which an appeal has been taken. No member of the Town Council shall sit on his/her own appeal, but the same shall be heard and determined by the other members of the Town Council. The Town Council shall have full power and authority to alter, revise, add to, and take from the said assessment. The decision of a majority of the Council shall be final and conclusive.

Upon completion of the appeal process under this section, the Town Council shall at that meeting or at the next ensuing regular meeting, adopt a resolution approving the final assessment list (including any and all charges, costs, or other assessments owed to the Town and added to the assessment list under section 9.5).

9.7.3 Supplemental Assessment Appeals. Whenever the ~~Board of Assessment~~ Tax Assessor prepares a quarterly supplemental assessment list under §9.4.1(b), it shall deliver such list to the Town Manager. Immediately upon receiving such supplemental assessment list from the ~~Board of Assessment~~ Tax Assessor, the Town Manager shall cause a full and complete copy thereof, containing the amount assessed to each taxable on such supplemental assessment list to be mailed, certified mail, return receipt requested, to each taxable on the supplemental assessment list at their last address as shown on the Town's tax records. Such mailing shall also include a notice that any taxable on said supplemental assessment list may request, in writing, an appeal to the Town Council concerning such supplemental assessment, such written request to be received at the Town Office within 14 days of the date that the notice is mailed.

Section 5. Amend Section 13, Chapter 176, Volume 74, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

13. Borrowing Powers.

13.1 Short-Term Borrowings by Town Council Without Voter Approval; Limit on Borrowing; Tax Exempt. The Town Council shall have the power to borrow money on the full faith and credit of the Town without approval of the voters and without regard to the provisions of Sections 13.2 or 13.3 of this Charter, such sum or sums not exceeding in the aggregate one and one-half percent (1 1/2%) of the total assessed valuation of all taxable property in

the Town, for any municipal or public purpose when, in the opinion of the majority of the Town Council elected, the needs of the Town require it; provided, however, that any new borrowings under this Section 13.1 made after the effective date of this act shall, by their terms, be repayable in full within ~~five (5)~~ fifteen (15) 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 Town Council duly authorized by Resolution of the Town Council and signed by the Mayor and attested by the Secretary of the Town Council with the town seal affixed. Any sum(s) of money borrowed on the full faith and credit of the Town shall be paid from the general funds of the Town. The aggregate amount of outstanding principal from any such borrowing or borrowings under this § 13.1 shall at no time exceed one and one-half percent (1 1/2%) of the total assessed valuation of all taxable property in the Town. Town expenditures that are not general obligations of the Town secured by the full faith and credit of the Town are exempt from the borrowing provisions in section 13. Anything herein to the contrary notwithstanding, the Town Council may, by ordinance, authorize the Town Manager to borrow up to an aggregate amount one hundred thousand dollars (\$100,000) for any municipal or public purpose without a Resolution of the Town Council authorizing the borrowing, provided that any such sums so borrowed by the Town Manager shall be included in the aggregate amount of short term borrowings for purposes of calculating the short term borrowing limit of one and one-half percent (1 1/2%) as further outlined herein.

SYNOPSIS

This Bill amends the Charter of the Town of Smyrna in the following ways:

Section 1 removes the Board of Assessment from the list of Boards the Town can appoint.

Section 2 replaces the appointment of a Board of Assessment with a Tax Assessor, which may be a qualified individual or entity. Section 2 eliminates language regarding the swearing in of the Board of Assessment and replaces references to the Board of Assessment with Tax Assessor.

Section 3 replaces references to the Board of Assessment with Tax Assessor.

Section 4 replaces references to the Board of Assessment with Tax Assessor and requires the Tax Assessor to be available to answer questions and provide information on the date of assessment appeals.

Section 5 increases the timeframe for repaying short term borrowings from five years to fifteen years. Section 5 states that expenditures not secured by the full faith and credit of the town are exempt from the requirements of section 13 and that the Town Council may adopt an ordinance authorizing the Town Manager to borrow up to \$100,000 without a Resolution of the Town Council approving the borrowing.