

CHAPTER 54
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 67

AN ACT TO AMEND THE CHARTER OF THE CITY OF SEAFORD RELATING TO TAXATION AND COLLECTION.

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 25 of the Charter of the City of Seaford by making deletions as shown by strike through and insertions as shown by underline as follows:

Section 25 – Assessor, Tax Assessment and Taxation.

(A) At the annual meeting held following the annual municipal election and in no event later than the first regular meeting, the Mayor shall appoint a qualified person or firm to serve as Tax Assessor.

(B) It shall be the duty of the Tax Assessor of the City of Seaford ~~duly appointed~~ to make ~~a true and impartial~~ assessments of the real property of each citizen resident within the limits and territory of the City and also nonresidents who own real property within the limits and territory of the City. The said real property shall be assessed at its actual and true value provided that any real estate within the corporate limits of the City containing in excess of five (5) acres and used exclusively for recreational purposes by non-profit organizations, or as farm land shall be exempt from taxation for City purposes. If, however, the real estate meets the criteria described above but has a building or other improvement on it, said building or other improvement shall not be exempt from taxation but shall be taxed as all other real estate lying within the territory and limits of the City of Seaford.

(C) The ~~said~~ Tax Assessor shall ~~make an fair and impartial assessment~~ each property as required by this Act ~~Charter and in accordance with the rates set by any ordinance adopted by the City Council pursuant to this Act and within thirty (30) days create a list of assessments arranged in alphabetical order.~~ The Tax Assessor may adopt the fair market valuation as made by the Board of Assessment of Sussex County for such real estate if the said Tax Assessor, in his judgment, considers such assessment to be proper and fair. The Tax Assessor shall be present in any advisory capacity, but without voting power, ~~at the time the City Council sits at a~~ at meetings of the Board of Revision and Appeal.

(D) The ~~said~~ Tax Assessor shall, at the option of the City Manager, make a supplemental assessment list quarterly in each fiscal year. The first such supplemental assessment list shall be certified on July 1 of each year, the second on October 1 of each year, the third on January 1 of each year, and the fourth on April 1 of each year.

(E) The City Council shall cause a full and complete transcript of the assessment list alphabetically arranged, to be posted in the City Hall and in one (1) other public place within thirty (30) days following its completion by the Tax Assessor. The said transcript shall remain posted for at least ten (10) days.

~~(F) At the first regular meeting following the expiration of the ten (10) day period required for posting, the City Council, between the hours of seven o'clock in the evening, prevailing time, and eight o'clock in the evening,~~

~~prevailing time, on said day shall sit and determine any appeals from the assessment as determined by the Tax Assessor and shall make any corrections, alterations or additions in and to any assessment so made. The said Council and Mayor, sitting as a Board of Revision and Appeal, shall have full authority to alter, revise, reduce or increase the assessment of property of any person or persons, partnership or corporation whose property has been assessed by the Tax Assessor. Any person appearing before the City Council sitting as a Board of Revision and Appeal may appear in person or may be represented by any third party who has written authorization to so appear. In the event that the Council Board of Revision and Appeal finds it necessary, or for any reason whatsoever to increase the assessment of property of any person or persons, partnership or corporation at the time of its sitting as a Board of Revision and Appeal, it shall give notice by registered mail with return receipt requested to such person or persons, partnership or corporation that the assessment on the real or personal property as made by the Assessor has been increased and, in addition, it shall set a time and date not later than twenty (20) days from the date of the mailing of said notice when such person or persons, partnership or corporation may appear before the Council sitting as a Board of Revision and Appeal for the purpose of introducing any evidence to the Board of Revision and Appeal demonstrating why the assessment should not be so increased. In the event that said the person or persons, partnership, or corporation does not notify the Council in writing by registered mail at least five (5) days prior to the date set by the Council sitting as a Board of Revision and Appeal for the hearing on the increased assessment of an If the person or persons, partnership, or corporation does not notify the Council of the intent to appeal the decision to increase his or her assessment or appear at the hearing on the date set, the increased assessment shall be final and no appeal there from shall be taken thereafter.~~

The Mayor and Council, sitting as a Board of Revision and Appeal, shall hear and determine any appeals of assessments filed by property owners and shall make any corrections, alterations or additions to any assessment found to be in error. All hearings will be held during the first quarter of the year following the assessment at a date set in advance by the Mayor and Council. Any person appearing before the Board of Revision and Appeal may appear in person or may be represented by any third party who has written authorization to represent the property owner. All appeals shall be heard on the date and at the time set by the City Council. During the hearing, the owner of the property or the authorized third party representative shall present all evidence to support the appeal. The Tax Assessor shall review the evidence presented at the hearing and provide a recommendation to the Board of Revision and Appeal at the next scheduled meeting, which shall be no later than 45 days after the appeal hearing. After receiving the recommendation of the Tax Assessor, the Board of Revision and Appeal shall make a determination of whether to alter, revise, reduce or increase the assessment of property. The decision of the Board of Revision and Appeal shall be mailed by registered mail to the property owner within seven (7) days of the meeting.

(G) The assessment, as revised and adjusted by the ~~City Council sitting as a Board of Revision and Appeal,~~ shall be the basis for the levy of the taxes of the City, subject however, to the addition of any interest and penalties as hereinafter provided.

(H) No member of the City Council shall sit as a member of the Board of Revision and Appeal upon his own appeal, but the appeal by any member of the City Council shall be heard and determined by the other members of the Board of Revision and Appeal in the same manner as hereinbefore provided

(I) After the valuation, assessment and any revision thereof, all taxes so assessed shall be levied and raised in equal proportions and rates.

(J) The assessment and valuation of real estate in the City of Seaford as made by ~~said the~~ Assessor, and as corrected, altered or added to by the ~~City Council at its sitting as a~~ Board of Revision and Appeal ~~hereinbefore mentioned~~, shall stand and is acted upon until changed as provided for herein.

(K) After the ~~said~~ Tax Assessor ~~shall have completed~~ completes the assessment of property in the City and ~~shall have made~~ makes his report to the City Council, ~~and shall have sat in an advisory capacity with the City Council sitting as the Board of Revision and Appeal~~, he or she shall have such further duties in respect to the assessment of persons and property as the City Council shall prescribe by resolution.

Section 2. Amend Section 27 of the Charter of the City of Seaford by deleting Section 27 in its entirety and making insertions as shown by underline as follows:

TAXATION AND COLLECTION THEREOF.

Section 27.

(A) The City Council, after having ascertained the sum necessary to be raised as taxes for the purpose of this Act, which sum shall not in any one year exceed the total sum of \$5,000,000 in excess of all delinquencies and expenses of collection, and after having apportioned the sum on the assessment and valuation as hereinbefore set forth, shall annually in the month of May or soon thereafter as practicable but in no event later than the 30th day of June in any year, cause to be delivered to the City Manager, a list containing the names of the taxables, as well as the owners of real and personal property and opposite the name of each taxable, the amount of assessment on his real and personal property, and his City per capital assessment, and the rate of tax on the real property and on the personal property per hundred dollars of assessment. The list as delivered to the City Manager shall be signed by the Mayor. 58 Del. Laws, c. 196; 59 Del. Laws, c. 283; 65 Del. Laws, c. 21; 76 Del. Laws, c. 44;

(B) The City Manager, upon receipt of said list, shall, as soon as possible, but in no event later than ten (10) days thereafter, mail to each taxable a statement showing the amount of assessment on his real and personal property, the per capita tax, the rate per hundred dollars of assessment on his real and personal property and the total tax due and owing.

(C) In addition to the annual assessment provided for herein, the City Manager may, at the City Manager's option, direct the tax assessor to prepare a quarterly supplemental list for the purpose of adding property not included on the last assessment or increasing the assessed value of property which was included on the last assessment. The supplemental list may be used to correct errors on the prior assessment rolls and to remove or modify any exemption from taxation applicable to property in the City. Such supplemental list shall be prepared quarterly in each fiscal year.

(1) The first such supplemental list shall be certified on July 1 of each year; the second on October 1 of each year; the third on January 1 of each year; and the fourth on April 1 of each year.

(2) On the date of certification of a supplemental list, the property owners listed thereon shall be liable to pay taxes equal to the assessed value of the property multiplied by the tax rates for the then current fiscal year applicable to the property, reduced by 25% where the property is listed on the second supplemental assessment roll; by 50% where the property is listed on the third supplemental assessment roll; and by 75% where the property is listed on the fourth supplemental assessment roll; and the amount of such tax shall be and remain a lien on such property from the time of its certification. In the collection of said taxes, before the first day of the second month after certification, there shall be no interest or penalty. On all taxes paid after the first day of the second month after certification, interest at the rate of one-half of one percent (.5%) per month and an additional sum of one percent (1%) per month as a penalty shall be added until the same shall have been paid. All taxes unpaid after the first day of the second month after certification shall be considered delinquent. In effecting collection of any delinquent tax, the City Council may impose a collection charge not to exceed eighteen percent (18%) of the amount of the tax and any interest or penalty imposed thereon.

(3) Appeals shall be made to the Board of Revision and Appeal as provided in Section 25(F). In no case shall the supplemental assessment procedure be employed to impose taxes retroactively. 65 Del. Laws, c. 94.

(D) In the collection of taxes, the City Manager may make an abatement of up to five percent (5%) of all taxes paid prior to the thirty first day of July next following the mailing of tax statement to each taxable as provided in subsection (B) above. On all taxes paid after the thirty-first day of July as aforesaid and before the first day of September next, there shall be no abatement from nor any interest or penalty added to the amount of tax assessed by the City Council. On all taxes paid after the first day of September as aforesaid, interest at the rate of one-half of one percent (.5%) per month and an additional sum of one percent (1%) per month as a penalty shall be added until the same shall have been paid. The Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid after the first day of September shall be considered delinquent. In effecting collection of any delinquent tax, the City Council may impose a collection charge not to exceed Eighteen per cent (18%) of the amount of the tax, and any interest or penalty imposed thereon. 57 Del. Laws, c. 380.

(E) The provisions of this Section shall apply to all special ad valorem taxes and special taxes levied by the City Council pursuant to Section 34A, provided that all references to this Section to an Annual Tax List shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the Tax List showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. 76 Del. Laws, c. 44.

(F) The City of Seaford shall also be authorized to impose a lodging tax of no more than 3 percent of the rent, in addition to the amount imposed by the State, for any room or rooms in a hotel, motel or tourist home, as defined in §6101 of Title 30, which is located within the boundaries of the City of Seaford.

(G) All taxes assessed upon any real estate and unpaid after the first day of September shall constitute a first lien against all real estate and personal property of the delinquent taxpayer situated within the limits of the City

of Seaford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. All capitation or taxes assessed and laid against any resident of the City shall also become a first lien against all real estate and all personal property of the delinquent taxpayer situated within the City and shall remain a lien for ten (10) years from the date of assessment.

(H) The City Manager, in the name of the City of Seaford, may take any permitted legal action to recover unpaid tax and may file, among other things, writs of execution to execute on any judgments obtained.81 Del. Laws, c. 330, §1.

(I) In addition, the City Manager, acting on behalf of the City, shall be, upon approval of the City Council, empowered to sell the lands and tenements of the delinquent taxpayer, or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by monition sale according the procedures and rights, authority and powers provided to Counties in Chapter 87 of Title 9 of the Delaware Code, as may be revised or amended. In an action filed under this subsection: The City Manager shall present in the name of the City of Seaford to the Superior Court of the State of Delaware in and for Sussex County a writ of monition in which shall be stated:

- (1) the name of the taxable;
- (2) the year for which the tax was levied;
- (3) the rate of tax;
- (4) the total amount due;
- (5) the date from which interest and the penalty for nonpayment shall commence and the rate of such interest and penalty;
- (6) a reasonable precise description of the lands and tenements proposed to be sold;
- (7) a statement that a bill of said tax has been mailed to the taxable at his last known post office address with return receipt requested by registered mail;

(J) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at his last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax through a tax sale. The City Manager shall exhibit the return registry receipt to the Court by filing the same with the petition writ of monition; provided that if the taxpayer cannot be found, it shall be sufficient for the City Manager to file with said petition writ of monition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(K) Upon the filing of the writ of monition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Sussex County.

(L) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Seaford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper published in the City; if, however, there is no newspaper published in the City of Seaford, such notice may be printed in a newspaper having a general circulation in the City. The notice shall

contain the day, hour, place of sale, and property address and tax parcel number of the property to be sold. The handbills shall be posted at least ten (10) days before the date fixed for sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(M) In the event the City Manager disapproves of the final bid, the property may be exposed to another and as many succeeding sales as the City Manager chooses.

(N) The City shall be entitled to include in the cost of the sale of lands and tenements all fees and costs permitted under the Delaware Code and the City shall be entitled to enact such other ordinances to assure the recovery of all expenses, including attorney fees, in collecting delinquent amounts.

(O) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(P) If any person is assessed for several parcels of land and tenements in the same assessment in the City of Seaford, the total of said taxes may be collected from the sale of any part or portion of said lands and tenements, provided that land alienated by the delinquent taxpayer shall not be sold until other property of the taxpayer shall have been disposed of and there still remains a delinquency.

(Q) In the event of the death, resignation or removal from office of the City Manager of the City of Seaford, before the proceedings for the sale of land shall have been completed, his successor in office shall succeed to all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment, or otherwise right under him by consent, devise, assignment, or otherwise may refer to the Superior Court of the State of Delaware in and for Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to execute and acknowledge a deed conveying to the petitioner the premises so sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(R) The City Manager shall have the same right to require the aid or assistance of any person or persons, in the performance of his duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.

(S) The City Manager may, at any time after any tax becomes delinquent, notify the person or corporation by whom any delinquent taxpayer liable for a property or capitation tax, or both, is employed that the tax of such employee is due and unpaid and it shall be the duty of such employer to deduct from the wages of such employee the amount of tax due from such employee and charge the same against him, and if such employer neglects or refuses to comply with such notice within three (3) months from the time of receiving said notice, he shall be personally liable for the taxes of said person so employed by him and the same may be recovered as provided in this section for the recovery from a delinquent taxpayer. When the said taxes are held by such employer he shall pay the same to the City Manager within thirty (30) days thereafter. In no event shall an amount exceeding forty per centum (40%) of the total net wages received by the delinquent taxpayer employee be deducted from the wages of such employee during any particular month.

(T) At the annual meeting in March of each year, the City Manager shall account to the City Council for all taxes and sewer rentals collected during the year by him and shall be liable on his bond for failure to account for any uncollected taxes or sewer rentals unless he can show to the satisfaction of the Council that all remedies hereinbefore set forth for the collection of such taxes were pursued without result, or, if not pursued, the remedies would have been without avail.

(U) A tax lien shall also be levied on: (1) any assessment or service charges issued by the City of Seaford against a property as it relates to any utility services provided by the City of Seaford, including any installations fees, connection fees and services charges for maintenance and use; (2) any maintenance, demolition, removal or repair costs mandated by the City on the property but that the owner refuses or fails to perform and the City is required to perform; (3) property maintenance fees assessed by the City for the owner's violation of the City Code and (4) any other fines, costs or assessments duly levied and authorized by this Charter, by ordinance or by State law including, but not limited to 25 Del. C. §2901(a)(1).

Approved June 19, 2019