

CHAPTER 108
FORMERLY
SENATE BILL NO. 76

AN ACT TO AMEND VOLUME 77, CHAPTER 450, LAWS OF DELAWARE, RELATING TO THE CHARTER OF THE TOWN OF WYOMING.

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 4, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

4.1 Time, Place, and Notice of Annual Elections.

The annual municipal elections shall be held on the last Saturday in the month of February. The polls shall be open for no less than seven (7) hours ~~from one o'clock P.M. until eight o'clock P.M.~~, at such place as shall be determined by the Council. Notice of elections shall be posted in five (5) public places and in two (2) local newspapers 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 candidates for each office, and 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 election notices shall be posted in accordance with 15 Del.C. Ch. 75.

Section 2. Amend Section 6, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

6. Special Meeting, Waiver of Notice.

Special meetings shall be called by the Secretary upon the written request of the Mayor or upon the written request of any two members of Council, stating the day, hour and place of the special meeting requested and the subject or subjects proposed to be considered thereat. The Secretary shall thereupon give written notice to the Mayor and to each member of Council of the day, hour and place of such special meeting and of the subject or subjects proposed to be considered thereat. Such notices of the Secretary must be emailed or hand-delivered to each Council member or deposited in the U. S. mail in the main post office in the Town of Wyoming at least forty-eight hours prior to the time set for such special meeting, provided, however, that a written waiver of such notice, signed by the Mayor and all other members of Council prior to or immediately upon the convening of such special meeting, shall make such forty-eight hour written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time named in such waiver, and the transaction of any other business at the meeting, if the waiver so states. The Town Council of the Town of Wyoming 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 regular meeting.

Section 3. Amend Section 14, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

14.9 Town Solicitor.

~~At the annual meeting, the~~ The Council shall select a Town Solicitor who shall be a member of the Bar of Kent County. It shall be his/her duty to give legal advice to the Council and other officers of the Town, and to perform other legal services as may be required of him/her by the Council.

Section 4. Amend Section 15, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(C) The Council shall, prior to the first day of June in each year, cause a copy of the assessment to be made available for public review at Town Hall and on the Town website, and there to remain for the space of ten (10) days for public review and information. Notice of the assessment's availability for review at Town Hall and on the Town website shall be posted in five-four (45) public places in the Town, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of The notice shall state the day, hour and place that the Council will sit as a Board of Revision and Appeal. ~~and the notices of the posting of the copies of the~~

~~assessment and the places where the same are posted and the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be posted in at least five public places in the Town.~~

Section 5. Amend Section 17, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

17. Collection of Taxes and Other Charges.

The Town Finance Clerk shall prepare the annual assessment list of real property assessments, which list shall be prepared from the warrant otherwise referred to in this paragraph, and such assessment list shall be made part of the minutes of the Town Council meeting in which it was presented. On or before the first day of ~~June~~ July in each year, the Council shall deliver to the Town Finance Clerk a list containing the names of the taxables of the Town, opposite the name of each the amount of his/her property assessment, the tax upon the whole of his/her assessment, and the rate per hundred dollars. Such list or assessment shall also include the list of any and all charges, costs or other assessment owed to the Town, including but not limited to curb and gutter assessments, weed and grass cutting bills, trash collection bills, and any charges incurred by the Town in bringing a property into compliance with the Town Code. Attached to said list shall be a warrant, under the seal of the Town of Wyoming, signed by the Mayor and attested by the Secretary, commanding the Town Finance Clerk to make collection of the taxes and other charges, costs or assessments as stated and set forth in the list.

All taxes laid or imposed under the provisions of this Charter, by the Council of the Town of Wyoming, as well as charges, costs and/or other assessments added to the assessment list as set forth immediately above, shall be, constitute, and continue as a lien upon all the real estate of the taxable against or upon whom such taxes/charges are laid or imposed of which such taxable was seized at any time after such taxes/charges shall have been levied and imposed, situated in the Town of Wyoming, for a period of ten years from the first day of ~~June~~ July of the year in which such tax/charge shall have been imposed; provided that if the real estate remains the property of the person(s) who was/were the owner(s) at the time it was so assessed, the lien shall continue until the same is collected in full. The lien of such taxes/charges shall have priority over all other liens except as provided under 25 Del.C. § 2906(b) or any future corresponding provision of law.

All taxes when and as collected by the Town Finance Clerk shall be paid to the Town Treasurer and all taxes shall be due and payable at and from the time of the delivery of the tax list to the Town Finance Clerk. A discount shall be allowed by the Town Finance Clerk of three per cent on every tax paid before the first day of ~~July~~ August in each year; no discount shall be allowed by the Town Finance Clerk on taxes paid on or after the first day of ~~July~~ August, and to every tax paid after the thirtieth day of September in each year, there shall be added and collected one per centum for every month or fraction of a month after the said thirtieth day of September that the tax remains unpaid, which penalty shall also apply to any additional costs, charges and/or assessments added to the tax bill pursuant to this section. Before exercising any of the powers herein given for collection of taxes, notices shall be given to the taxable of the amount due.

Except as provided otherwise herein, the provisions of 9 Del.C. Chapter 87 ('Collection of Delinquent Taxes'), as it may from time to time hereafter be amended, shall be deemed and held to apply to all taxes laid and/or imposed, and all charges, costs or other assessments added to the assessment list delivered to the Town Finance Clerk for collection pursuant to this section. ~~The Town Finance Clerk shall have all of the same powers, remedies, and authority as conferred upon the Receiver of Taxes of Kent County under 9 De.C. Ch. 87 ("Collection of Delinquent Taxes"), until such time as said powers, remedies, and authority are conferred upon the Department of Finance under 9 Del.C. Ch. 41, as the same may from time to time hereafter be amended, or in accordance with any future corresponding provision of law.~~ The Town Finance Clerk shall have all of the same powers, remedies, and authority, including the monition method of the collection of taxes, as conferred by Title 9 of the Delaware Code, as the same may from time to time hereafter be amended, or in accordance with any future corresponding provision of law, upon those individuals and/or departments authorized to collect delinquent taxes in Kent County. In the event that the Town Solicitor is employed to bring any legal action in any Court of law or equity on behalf of the Town for the collection of any taxes, or any other costs, charges and/or assessments due to the Town, and if the Town in said action shall recover judgment in any sum, then the Town shall also recover in said action, the costs of the suit,

reasonable attorney's fees incurred, and other reasonable and necessary out-of-pocket expenses incurred by the Town in such collection proceeding. Said costs and reasonable attorney's fees incurred shall be entered, allowed and paid as part of the decree of judgment in said action, and shall constitute a lien upon all of the real estate of the taxable as allowed by Delaware law, becoming a part of, relating back to, and having the same preference and priority as the lien of said taxes due.

Section 6. Amend Section 18, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

18.2 Define, prevent and abate nuisances, obstructions, or any other condition detrimental to the public safety, health or welfare; and to cause the cost of such abatement or removal to be paid by the legal entity causing or permitting the same to exist.

Section 7. Amend Section 20, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

The fiscal year of the said Town shall begin the first day of July in each year and shall end with the next succeeding last day of June. The Town Council shall cause a full and correct audit annual statement of the receipts and disbursements of all Town moneys for the prior fiscal year to be made available for public review at Town Hall and on the Town Website. Notice of the audit's availability for review at Town Hall and on the Town website shall ~~next preceding~~ to be posted in fourfive (45) public places, with one of the places being at the Town Hall.

Section 8. Amend Section 22, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

22. Obstructions, Nuisances, and Unsanitary Conditions

The Town Council shall have power and authority to enact ordinances or adopt resolutions to define, prevent, abate and remove all obstructions, nuisances and unsanitary conditions at any time existing or deemed to be contemplated whether in the street, squares, lanes, or alleys, or on the sidewalks, pursuant to procedures established by the town via ordinance. ~~or in any other public or private place within the limits of said Town either on its own inspection, or upon written complaint of any citizen of said Town, stating the character and location of the obstructions, nuisances or unsanitary conditions, and signed by the citizen making the complaint. If a majority of Council, either upon inspection or upon such information, or both, shall determine that such obstruction, nuisance, or unsanitary condition exists and ought to be removed or abated, as the case may be, Council shall enact an ordinance or adopt a resolution, or both, appropriate to the contemplated or existing condition and Council shall thereupon give notice in writing, signed by the Mayor or acting Mayor to the person or persons contemplating or causing such obstruction, nuisance or unsanitary condition, or to the person or persons who are responsible for its existence or continuance, to remove or abate the same and if such person or persons refuse or neglect for the space of two days after such notice is mailed to remove or abate the stated condition, Council shall have power and authority to remove or abate the same in a summary manner and at the expense of the person or persons responsible therefor.~~ Council shall have the power and authority to enforce, by Ordinance, all the requirements of this section by imposing fines and penalties as shall be in the judgment of Council necessary and proper, which shall be in addition to the expenses incurred (including, but not limited to its reasonable attorney's fees incurred in enforcement and/or litigation, and court costs) and cost of removal or abatement. For all the purposes of this section, any property, whether dwelling, storehouse, or both, or otherwise, which does not have proper connections with the sewer system of the said Town, if such sewer connections be available for such property, shall be deemed to be in an unsanitary condition under the meaning of this section, at the discretion of the Council.

Section 9. Amend Section 34, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

34. Annexation of Territory

(F) At the Special Election, every citizen of The Town of Wyoming or the territory proposed to be annexed over the age of eighteen (18) years shall have one (1) vote. Every owner of property within either The Town of Wyoming or in the territory proposed to be annexed who is not a citizen therein, whether an individual partnership or a corporation, shall have one (1) vote. In the cases of jointly owned property, each property owner

~~shall be entitled to one vote. the votes of the owners of shares therein shall be in accordance with their respective shares or, if all owners appear at the polls and so consent, all of the votes may be cast by the owner of any share.~~ Life tenants shall have the entire vote as to the property so held and holders of remainder interest only shall have no vote by reason thereof. In no event shall any person be entitled to more than one (1) vote. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of The Town of Wyoming in the case of property owners and citizens of the Town and the books and records of the Board of Assessment of Kent County, in the case of property owners and residents of the territory to be annexed, shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.

Section 10. Amend Section 34, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(I) The Mayor of The Town of Wyoming shall appoint three (3) persons to act as a Board of Special Elections, at least one (1) of whom shall own property in the Town of Wyoming and at least one (1) of whom shall own property in the property proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in a public place as designated by the Resolution calling the Special Election. The Board of Special Elections shall have available, clearly marked, two (2) voting machines. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations authorized to vote as residents or property owners of The Town of Wyoming shall be accomplished on the other such voting machine. The polling place shall be open for no less than five (5) hours ~~from one o'clock in the afternoon, prevailing time, until six o'clock of the event, prevailing time,~~ on the date set for the Special 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 closing of the polls.

Section 11. Amend Section 34, Chapter 450, Volume 77, Laws of Delaware, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(L) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books on the Board of Assessment of Kent County, no election shall be necessary and the Town Council of The Town of Wyoming may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation, if such property is owned by a corporation, or by a written Petition with the signature of each such Petitioner duly acknowledged, if such property is owned by an individual, requesting the Town Council to annex that certain territory in which they own property. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of The Town of Wyoming shall appoint a committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. No later than ninety (90) days following its appointment by the Mayor, as aforesaid, the committee shall submit a written report containing its findings and conclusions to the Mayor and Town Council of Wyoming. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Wyoming 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 both to The Town of Wyoming 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 therefor. In the event that the committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Wyoming may then pass a Resolution annexing such territory to The Town of Wyoming. Such Resolution shall be passed by the affirmative vote of ~~two-thirds (2/3)~~ a majority of all the elected members of the Town Council. In the event that the committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution shall be passed by four-fifths (4/5) ~~three-fourths (3/4)~~ of all the elected members of the Town Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution

failed to receive the required votes. If the Resolution receives the required number of votes, the Town Council of The Town of Wyoming shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of The Town of Wyoming from the time of recordation. The failure of the Town Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution.

Section 12. This bill shall become effective immediately upon the date of its enactment.

Approved July 15, 2013