

CHAPTER 248
FORMERLY
SENATE BILL NO. 173

AN ACT TO AMEND THE CHARTER OF THE TOWN OF HENLOPEN ACRES RELATING TO THE QUALIFICATIONS OF MAYOR, COMMISSIONERS, AND VOTERS.

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 5 of the Charter of the Town of Henlopen Acres, by making deletions as shown by strike through and insertions as shown by underline as follows:

Qualifications of Mayor And Commissioners And Voters

Section 5.

~~The qualifications for Mayor and Commissioner shall be as follows:~~

~~(a) Each of the seven (7) Commissioners of Henlopen Acres, at the time of the approval of their qualifications by the Town Commissioners, as hereafter provided or at the time of their appointment, as the case may be, and throughout his or her term of office, shall have attained the age of twenty one (21) years of age.~~

~~(b) Each shall be a non delinquent taxable of the Town, as to all property taxes levied or assessments made by the Town for at least one year immediately prior to the date of the annual election.~~

~~(c) (1)a. At least four of the seven Commissioners must be bona fide residents of the Town, but all may be residents of the Town for at least one year immediately prior to the date of the annual election. The Commissioner with the title of Mayor of the Town of Henlopen Acres shall be a bona fide resident of the Town.~~

~~b. Any person who, on the date of the filing of notice of intention to run (or on the date of his or her appointment to fill a vacancy), has been a full time resident of the Town for at least one year immediately prior to the date of the annual election and certifies his or her intention of remaining a full time resident of the Town, shall be deemed to be a resident Commissioner upon taking office, whether or not such person is also a freeholder in the Town; and if such person subsequently fails to maintain residency in the Town, but continues to be a freeholder in the Town, during his or her term of office, that person shall continue to be deemed a "resident" Commissioner.~~

~~e. Any person who, on the date of filing of the notice of intention to run (or on the date of his or her appointment to office in the case of a vacancy) is not a resident of the Town but is a freeholder for at least one year immediately prior to the date of the annual election be deemed to be a "non resident Commissioner". If such "non resident" Commissioner subsequently establishes residency in the Town during his or her term of office, that person shall continue to be deemed to be a "non resident" Commissioner; provided, however, that if any non resident Commissioner shall, during his or her term of office, cease to be a freeholder in the Town, that person shall be deemed to have vacated his or her office by reason of that fact alone, regardless of whether or not that person has subsequently become a resident of the Town.~~

~~(d)~~

~~(1) Every property owner, whether an individual, trust, partnership, corporation or limited liability company shall have one vote.~~

~~(2) A entity other than an individual shall vote by a person named in a certificate signed by the president, vice-president or person with authority, attested by the secretary or an assistance secretary, and with the corporate or appropriate seal affixed. A partnership shall vote by a person named in a certificate signed by all of the general partners. No vote shall be cast by a person named in a certificate given pursuant to this paragraph until the certificate is filed with the Town Manager. A new certificate shall be required for each election.~~

~~(3) Every citizen of the United States, State of Delaware, and Town of Henlopen Acres who is not a property owner but who is a bona fide resident for thirty days immediately prior to the date of the annual election of the Town of Henlopen Acres, and is over the age of eighteen (18) shall have one vote.~~

~~(e) These provisions shall be construed in accordance with the principle of "one person/entity, one vote": If a voter is entitled to vote by virtue of being both a resident and an owner of real property, the voter is entitled to only one vote; if a voter is entitled to vote by ownership of two or more parcels of real property, the voter is entitled to only one vote.~~

~~(f) The Commissioners may, by ordinance, provide for a voter registration procedure.~~

The qualifications for Mayor and Commissioners shall be as follows:

(a) Each of the seven Commissioners of Henlopen Acres, at the time of the approval of their qualifications by the Town Commissioners, as hereafter provided or at the time of their appointment, as the case may be, and throughout his or her term of office, shall have attained the age of 21 years of age, and shall be eligible to vote under the provisions of this Section.

(b) Each shall be a non-delinquent taxable of the Town, as to all property taxes levied or assessments made by the Town.

(c) At least four of the seven Commissioners must be bona fide residents of the Town, but all may be residents of the Town. The Commissioner with the title of Mayor of the Town of Henlopen Acres shall be a bona fide resident of the Town for at least one year prior to the date of the annual election.

(1) Any person who, on the date of the filing of notice of intention to run (or on the date of his or her appointment to fill a vacancy), has been a bona fide resident of the Town for at least one year prior to the date of the annual election and certifies his or her intention of remaining a bona fide resident of the Town, shall be deemed to be a "resident" Commissioner upon taking office, whether or not such person is also a Real Property Owner in the Town; and if such person subsequently fails to remain a bona fide resident of the Town, that person shall be deemed to have vacated his or her office by reason of that fact alone, except that if such person continues to be a Real Property Owner in the Town, during his or her term of office, that person shall be deemed a "non-resident" Commissioner so long as at least four Commissioners are bona fide residents of the Town of Henlopen Acres.

(2) Any person who, on the date of filing of the notice of intention to run (or on the date of his or her appointment to office in the case of a vacancy), is not a bona fide resident of the Town but is a Real Property Owner for at least one year prior to the date of the annual election shall be deemed to be a "non-resident Commissioner." If such "non-resident" Commissioner subsequently becomes a bona fide resident of the Town during his or her term of office, that person shall continue to be deemed to be a "non-resident" Commissioner; provided, however, that if any non-resident Commissioner shall, during his or her term of office, cease to be a Real Property Owner in the Town, that person shall be deemed to have vacated his or her office by reason of that fact alone, unless that person has subsequently become a bona fide resident of the Town.

(d) The Commissioners shall be judges of the qualifications of their members.

(e) For purposes of this Charter, a "Real Property Owner" shall be deemed to include any person or artificial entity that holds at least a 50% fee simple interest in real property in the Town as an individual owner, a joint tenant, a tenant by the entireties, or a tenant in common.

The qualifications for voter eligibility shall be as follows:

(f) Every citizen of the United States, State of Delaware, and Town of Henlopen Acres who is a bona fide resident of the Town of Henlopen Acres for thirty (30) days prior to the date of the annual election of the Town of Henlopen Acres, and is over the age of Eighteen (18) shall be entitled to One (1) vote, provided such person is registered on the Books Of Registered voters.

(g) Every non-resident Real Property Owner, whether a person, or artificial entity, qualifying as a Real Property Owner for a period of thirty (30) days immediately preceding the date of the Annual Municipal Election of the Town of Henlopen Acres shall have one vote.

(1) A non-resident shall be a citizen of the United States and at least 18 years old or an artificial entity established under the laws of the United States, provided such person or artificial entity is registered on the Books of Registered Voters.

(2) An artificial entity shall vote by a person named in a certificate, filed for each election with the Town of Henlopen Acres, providing legal authorization for the person to vote on behalf of the artificial entity in the Annual Municipal Election. The person authorized to vote on behalf of an entity shall be a citizen of the United States and at least 18 years old.

(h) These provisions shall be construed in accordance with the principle of “one-person, one vote”: If a voter is entitled to vote by virtue of being both a resident of the Town of Henlopen Acres and a Real Property Owner, the voter is entitled to only One (1) vote; if a voter is entitled to vote by ownership of two or more parcels of real property, the voter is entitled to only One (1) vote. One may not vote as an individual, and again as an agent for one or more artificial entities. Additionally, one may not vote as an agent for multiple entities.

(i) The Commissioners may, by ordinance, provide for a voter registration procedure.

Section 2. If any provision of this Act shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Act which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Act are hereby declared to be severable.

Approved June 10, 2014