

CHAPTER 346  
FORMERLY  
HOUSE BILL NO. 377

AN ACT TO AMEND THE LAWS OF DELAWARE RELATING TO THE CHARTER OF THE TOWN OF DEWEY 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 Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in the first and third paragraphs of Section 2, Subsection (d) thereof by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 2. Territory Limits.

(d) The Commissioners of Dewey Beach shall have the power to annex additional territory adjoining the corporate limits of the Town of Dewey Beach as hereinbefore set forth or as hereafter extended pursuant to the procedure hereinafter set forth and to apply to all such additional territory all laws, ordinances, resolutions and policies in force with the Town so far as they may be locally applicable. The Commissioners of Dewey Beach shall adopt a Resolution proposing to the property owners and the residents of both the Town and of the Territory proposed to be annexed that The Town of Dewey Beach proposed to annex certain territory which adjoins its then limits and territory. The Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution setting forth the information shall be printed in a newspaper ~~published~~ having a general circulation both in The Town of Dewey Beach and in the territory proposed to be annexed at least one week prior to the date set for the public hearing, ~~as well as posted at Town Hall, the Life Saving Station, and on the Town's website.~~ In addition, a reasonable effort will be made to send a personal letter to all qualified voters and property owners of record of the Town and all property owners of record in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the public hearing. ~~or, if no newspaper is published in the Town, publication shall be had in the territory proposed to be annexed, or, at the discretion of The Commissioners of Dewey Beach, the said Resolution shall be posted in four (4) public places both in The Town and in the territory proposed to be annexed.~~

The notice of the time and place of holding the said Special Election shall be printed within thirty (30) days immediately preceding the date of the Special Election ~~in at least two (2) issues of a newspaper published in The Town, or if no newspaper is published in The Town, the notice may be printed within thirty (30) days immediately preceding the date of the Special Election~~ in two (2) issues of a newspaper having a general circulation in The Town and in the territory proposed to be annexed, ~~or, in the discretion of The Commissioners of Dewey Beach the said notice may be posted in five (5) public places both in the Town and in the territory proposed to be annexed,~~ as well as posted at Town Hall, the Life Saving Station, and on the Town's website at least fifteen (15) days prior to the date of the Special Election. In addition, a reasonable effort will be made to send a personal letter to all qualified voters and property owners of record of the Town and all property owners of record in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the Special Election.

Section 2. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in Section 5, Subsections (a), (b) and (c) thereof by making insertions as shown by underlining and deletions as shown by strike through as follow:

Section 5. Qualifications of Mayor and Commissioners.

(a) Each Commissioner shall be at least 21 years of age, ~~a non-delinquent taxable of the County, and shall be non-delinquent as to all taxes levied or assessments made by the Town.~~

(b) Not less than two (2) of the Commissioners shall be designated Resident Commissioners. A Resident Commissioner shall have the following qualifications: 1) shall be a bona fide resident and domiciliary of the Town; and 2) shall own real estate within the Town or ~~be resident trustees of the property which is owned in trust~~ be both a settlor/creator and trustee of a valid trust to which real property which is located within the Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for Sussex County, or be a leaseholder of real estate in the Town under a valid lease of a term of five (5) years or more. Any person applying as a

leaseholder candidate pursuant to this subsection will be required to include a copy of a valid lease with his or her candidate filing.

(c) Other Commissioners must either have the qualifications of a Resident Commissioner as defined above or be an owner of real estate within the Town or be both a settlor/creator and trustee of a valid trust to which real property which is located within Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for Sussex County, or a leaseholder of real estate within the Town under ~~the~~ a valid lease of a term of five (5) years or more. Any person applying as leaseholder candidate pursuant to this subsection will be required to include a copy of a valid lease with his or her candidate filing.

Section 3. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in Section 10, Subsection (b) thereof by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 10. Manner of Holding Elections

(b) Each person eighteen years of age or older, who is a bona fide resident and domiciliary of the Town of Dewey Beach, or who is an owner of real property within the Town, or who holds a valid lease for a term of five years or more on property within the Town, shall be qualified to vote in the election of Town officials as herein provided. A leaseholder seeking qualification as a voter under this subsection will be required to file a copy of a valid lease at the time of voter registration. A ~~Non~~non-resident persons eighteen years of age or older who ~~are~~ is both a ~~settler~~settlor/creator(s) and trustee(s) of a valid trust to which real property which is located within the Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for Sussex ~~county~~ County shall be qualified to vote in the election of Town officials, provided that the Trust document which identifies the trustee(s) and the ~~settler~~settlor(s)/creator(s) must be presented at the time of registration.

Section 4. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in Section 15, Subsection (c) thereof by making deletions as shown by strike through as follows:

Section 15. Town Manager.

(c) The Town Manager ~~shall hold office for an indefinite term and~~ may be removed for just cause by a majority vote of the Commissioners of the Town of Dewey Beach. At least thirty (30) days before such removal shall become effective, the Commissioner shall, by a majority vote of all of the elected Commissioners thereof, adopt a preliminary resolution stating the reasons for his removal. The Manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Commission, by a majority vote of all of the elected Commissioners thereof, may adopt a final resolution of removal. By the preliminary resolution, the Commission may suspend the Town Manager from duty but shall in any case cause to be paid him forthwith any unpaid balance of his salary for the next three (3) calendar months following the adoption of the preliminary resolution.

Section 5. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in Section 16, Subsections (a) and (j) thereof by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 16. Responsibilities of the Town Manager.

(a) The Town Manager shall be responsible to the Commissioners of the Town of Dewey Beach for the proper administration of the affairs of the Town placed in his charge and to that end, he shall have the power to make such appointments and to hire such employees at such compensations as the Commissioners, by resolution, shall determine, subject to such rules and regulations as may be adopted by the Commissioners. All employees ~~shall be hired for an indefinite term and~~ may be removed by the Town Manager at any time for just cause unless otherwise provided by resolution of the Commissioners. He shall exercise his sole discretion in the appointment or hiring of any such employees. The Town Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by him. The Commissioners of the Town of Dewey Beach shall sit as a Board of Appeal for the protection of Town employees at those times when the majority of all the Commissioners are agreed that a review of the action of the Town Manager would be in the best interest of the Town of Dewey Beach. The decision of the Commissioners in such case shall be final and conclusive.

(j) Upon the death, resignation, or removal from the office of the Town Manager, the Mayor, with the approval of a majority of all elected members of the Commission, shall appoint some suitable person, who may be an elected or appointed official of the Town of Dewey Beach, to perform the duties of Town Manager; ~~provided, however, such person shall not serve for a period exceeding ninety (90) days from the date of his appointment~~ on an interim basis for ninety (90) days with the option of renewal of the appointment for two (2) additional terms of ninety (90) days or until a Town Manager is appointed, whichever period is shorter.

Section 6. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, Section 17 thereof, by making insertions as shown by underlining and deletions as shown by strike through as follows:

~~Section 17. Auditors~~

~~(a) Three Auditors of Accounts who shall be freeholders of the Town shall be appointed by the Commissioners at each annual meeting hereinbefore provided to serve for the term of one year or until their successors shall have been duly appointed and qualified.~~

~~(b) It shall be their duty to audit the accounts of the Town and all of its officers whose duty involves the collection, custody and payment of monies of the Town. They shall audit the books of the Mayor of the Town of Dewey Beach, and the records of all fines, penalties and costs imposed or collected by him pursuant to any judgment, order, or decree made. The auditors on or before the 15th day of August, annually, next following their appointment, shall make and deliver a detailed report of every and all accounts, records, and books by them examined and audited, which report under their hands and seals shall be printed in a newspaper which has general circulation in the Town in the issue immediately succeeding their annual report. The Auditors, in the performance of their duties, shall have access to all records and accounts of the offices of the Town Commissioners and they are authorized and empowered to employ such clerks and accounts as in their judgment may be necessary in the proper performance of their duties at such compensation as may be determined by the Commissioners.~~

Section 17. Audit Committee/Auditors

(a) The Audit Committee shall be composed of not less than three (3) property owners, the majority of whom are bona fide residents of the Town of Dewey Beach, who have no relationship to the Town that may interfere with the exercise of their independence from the Town's management and the Town. The Chairperson and members of the Committee shall be appointed by the Council at each annual meeting to serve for a term of one (1) year. Each member of the Committee shall be financially competent and at least one (1) member shall have accounting or related financial management experience. The principal purpose of the Committee is to provide oversight of the annual audit of the Town financial statements, to recommend the hiring of an independent financial audit firm, to assess the qualifications and independence of the firm and to negotiate a price for the audit, to review the performance of the independent audit firm, to review the firm's audit report and assessment of the Town's accounting and reporting practices and internal control systems, and to recommend acceptance or rejection by the Council of the audit report.

(b) It shall be the responsibility of the Independent Auditors to perform an audit of the annual financial statements of the Town of Dewey Beach in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States. The Auditors, on or before the 15<sup>th</sup> day of August following the Town's fiscal year end shall deliver their report, including their opinion as to whether the Town's basic financial statements, together with required Supplemental Information, present fairly, in all material respects, the financial position of the governmental activities and each major fund of the Town, and the respective changes in financial position and cash flows, where applicable, in conformity with accounting principles generally accepted in the United States of America. In addition, other Supplemental Information for the General Revenue and Special Revenue Funds shall be provided with comparative amounts for the preceding three (3) fiscal years. A summary of the report shall be printed in a newspaper which has general circulation in the Town in the issue immediately succeeding their annual report, with a statement that the full text of the report can be viewed on the Town's website, where a full copy of the report shall be accessible to visitors to the website. The financial statements are the responsibility of the Town's management. The Independent Auditor's responsibility is to render an opinion on the Town's financial statements based on their audit examination.

Section 7. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, Section 18 thereof, by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 18. Town Solicitor

The Commissioners may select and appoint a Town Solicitor ~~for an indefinite term~~ who shall be removable at the pleasure of the Commissioners of Dewey ~~Beach~~ Beach either with or without due cause stated. The Town Solicitor shall be a member in good standing of the Bar of the State of Delaware ~~with offices in Sussex County~~. It shall be his duty to give legal advice to the Commissioners and other offices of the Town and to perform other legal services as may be required of him by the Commissioners.

Section 8. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, Section 22, Subsections (b) and (c) thereof, by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 22. Town Budget.

(b) Annually each year and not later than the last week in ~~November~~ February, the Commissioners shall prepare a rough draft of a Town Budget. From this rough draft, the Town Commissioners of Dewey Beach shall, not later than ~~December 10th~~ the second Saturday of March of each year, prepare the Town Budget, containing the financial plan for conducting the affairs of the Town for the ensuing fiscal year.

(c) The Budget shall contain the following information:

1. A detailed estimate showing the expense of conducting each department and office of the Town for the ensuing fiscal year.
2. The value of supplies and materials on hand, together with the nature and kind of machinery or other implements and the condition thereof.
3. The amount of the debt of the Town, together with a schedule of maturities of bond issues, and the amount of any reserve funds.
4. An itemized statement of all other estimated expense to be incurred in the affairs of the Town.
5. A statement of the amount required for interest on the bonded debt, the amount necessary to pay any Bond maturing during the year and the amount required for the "Sinking Fund" or "Sinking Funds".
6. An estimate of the amount of money to be received from taxes, assessments, and all other anticipated income of the Town from any source or sources whatsoever.

Section 9. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, Section 23, Subsection (a)13.m. and (a)13.o. thereof, by making deletions as shown by strike through as follows:

Section 23. Enumeration of Powers.

(a) 13. m. The form of the ballot of the said Special Section shall be as follows:

- ( ) For the Referred Ordinance
  - ( ) Against the Referred Ordinance
- (Check your preference)

~~Voting machines or paper ballots may be used in any Special Election on a referral of an ordinance or resolution. The Commissioners shall cause to be prepared and printed a sufficient number of ballots not less than five (5) days prior to the date of the Special Election. Voting machines shall be used if the referendum is held on the date of the Annual Municipal Election.~~

o. The Commissioners may, in their sole discretion, elect to adopt an ordinance, except for an ordinance specified not to be the subject of a referendum proceeding in subsection a, hereinabove, subject to a referendum. In such event, the Commissioners shall, at the same time such ordinance is adopted, include in the language of said ordinance that such ordinance shall be the subject of a referendum. Upon the passage of the ordinance adopted subject to a referendum, such ordinance shall be suspended from taking effect until thirty (30) days after the results of the referendum, such referendum are returned indicating that the ordinance is approved by referendum. ~~The vote of the eligible voters on a referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days from the date that the Commissioners adopt the referred ordinance. If the Annual Municipal Election is to be held within the~~

~~period prescribed in this subsection, such referendum shall be considered as part of that election. If the Annual Municipal Election is not held within the period prescribed in this Section, the Commissioners shall provide for a Special Election. If the Commissioners fail to hold a referendum within the time specified in this subsection, the ordinance for which the petition was filed shall be deemed to be repealed at the expiration of sixty (60) days from the date that the Commissioners adopted the referred ordinance, and shall not be passed in the same form for a period of one (1) year from the effective date of repeal.~~

~~If a majority of the residents and property owners voting on the referred ordinance vote against such ordinance, it shall be considered repealed upon the certification by the Election Board. No ordinance that has been repealed as the result of a referendum shall be passed again the same form by the Commissioners within a period of one (1) year from the date of the referendum.~~ Nothing contained herein shall operate so as to require the Commissioners to exercise their discretion to submit any ordinance to a referendum; and nothing contained herein shall operate to restrict the right of the eligible voters of the Town of Dewey Beach to initiate a referendum pursuant this Section. However, the decision of the Commissioners to submit an ordinance to a referendum shall, in the case of such ordinance, constitute the only referendum to which such ordinance shall be subjected; and there shall be no right to subject such ordinance to an additional referendum.

Approved July 18, 2012