

CHAPTER 130
FORMERLY
SENATE BILL NO. 165
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND THE CHARTER OF THE CITY OF DOVER
BEING CHAPTER 175, VOLUME 75, OF THE LAWS OF DELAWARE,
AS AMENDED, RELATING TO GOVERNANCE, ELECTIONS,
ADMINISTRATION AND FINANCE.

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 175, Volume 75, Laws of Delaware, by adding a new preamble as follows:

“PREAMBLE

We the people of the City of Dover, under the constitution and laws of the state of Delaware, in order to secure the benefits of local self government and to provide for an honest and accountable council manager government do hereby adopt this charter and confer upon the city the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.”

Section 2. Amend Article 1, Section 1 and Section 1A, Chapter 175, Volume 75, Laws of Delaware, as amended by renaming ‘Article I. GENERAL PROVISIONS’ as ‘Article I. POWERS OF THE CITY’, by renumbering ‘Section 1A’ as ‘Section 1.05’, and by deleting Section 1 in its entirety and substituting in lieu thereof the following: “ ”

Section 1.01. Powers of the City.

In addition to the powers specifically enumerated by statutes in Title 22 of the Delaware Code and elsewhere, the City of Dover shall assume and have all powers which under the Constitution of the State it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute.

Section 1.02. Construction.

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

Section 1.03. Intergovernmental Relations.

The city may participate by contract or otherwise with any governmental entity of this state or of the United States in the performance of any activity which one or more of such entities has the authority to undertake.

Section 1.04. Municipal corporation continued; boundaries.

The municipal corporation of the State of Delaware, known as "the City of Dover" shall continue to be a body politic and corporate. The boundaries of the City of Dover are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office in and for Kent County and State of Delaware as presently existing and as hereinafter amended.”

Section 3. Amend Section 2, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting “Section 1” in the first line and replacing it with “Section 1.04”.

Section 4. Amend Section 3, Chapter 175, Volume 75, Laws of Delaware, as amended, by renaming it “Employee pension, benefit and retirement systems authorized” and deleting the first paragraph in its entirety.

Section 5. Amend Section 4, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting it in its entirety and inserting in lieu thereof the following:

“Section 4. General Powers and Duties.

All powers of the city shall be vested in the city council, except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.”

Section 6. Amend Section 5(4), Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting “Twenty-one (21)” and inserting in lieu thereof “Eighteen (18)” and by inserting a new paragraph at the end of Section 5 to read as follows:

“Holding Other Office. Except where authorized by law, no council members shall hold any other elected public office during the term for which the member was elected to the

council. No council member shall hold any other city office or employment during the term for which the member was elected to the council. No former council members shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the council, unless granted a waiver by the Board of Ethics (Ethics Commission).”

Section 7. Amend Section 6, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting it in its entirety and inserting in lieu thereof the following:

“Section 6. Municipal election; dates, time, and place of elections.

Regular municipal elections shall be held each year on the third Tuesday in April. All other municipal elections that may be held shall be known as special municipal elections. At each such municipal election, the polls shall be opened at 7:00 a.m. and closed at 8:00 p.m. The council may designate the places of election and make all necessary rules and regulations not inconsistent with this Charter or with other laws of the State of Delaware for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud. At the regular municipal election held on the third Tuesday in April of any odd numbered year, five councilmen shall be elected for a term of two years, four of whom shall be elected by district voting from each of the districts as designated by council and one of whom shall be elected by at large voting by all voters of the city, as provided in section 5 of this Charter. At the regular municipal election held on the third Tuesday in April of any even numbered year, four (4) councilmen shall be elected by district voting from each of the districts as designated by council for a term of two years, and a mayor shall be elected by the voters of the city for a term of two years, as provided in section 5 of this Charter.”

Section 8. Amend the first paragraph of Section 7, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting “4:00 p.m.” and inserting in lieu thereof “4:30 p.m.” throughout.

Section 9. Amend Section 8, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting “Time and place of elections;” from its title and by deleting the first paragraph in its entirety and inserting in lieu thereof the following:

“There is hereby created an election board which shall be a non-elected body to oversee the municipal elections, as well as to serve as an advisory board to Council on such matters as voter registration, municipal elections, election rules and regulations, and polling locations for City elections. The board shall be composed of five (5) members, serving three (3) years terms, to be appointed by the Mayor and confirmed by council at the Annual Meeting, or as necessary to fill vacancies as they occur. One member shall be appointed from each district into which the city has been divided for election purposes, and one member shall be appointed on an at large basis. The City Clerk shall serve as a liaison member of the board. Upon expiration of the term of appointment, a member shall serve until his/her successor has been duly appointed. If a vacancy occurs during the term of any member of the election board, a person residing in the same numbered district shall be appointed to fill the remainder of said term. Members serve without salary, but shall be paid a per diem allowance as specified by City ordinances.

To be eligible for appointment to the election board, each prospective member shall be a citizen of the United States, a registered voter within the City, and have resided within the geographical boundaries of the City for one year preceding the appointment. The Mayor and members of Council, their parents, spouse, or children, shall not be eligible for appointment to the election board.”

Section 10. Amend Section 8, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting “an election board.” and inserting in lieu thereof “the election board.”

Section 11. Amend Section 10, Chapter 175, Volume 75, Laws of Delaware, as amended, by replacing “may” with “shall” in the first line of the fifth paragraph and by inserting the following at the end of Section 10:

“The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk.

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.”

Section 12. Amend Section 12, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting it in its entirety and inserting in lieu thereof the following:

“Section 12. Compensation; Expenses—Mayor, council members, and other elected or appointed officials.

The city council shall determine the annual salary and emoluments of the mayor, council members, and other elected or appointed officials by ordinance, but no ordinance increasing the salary of the mayor or city council members shall become effective until the

date of commencement of the terms of the mayor or council members elected at the next regular election. The mayor and council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.”

Section 13. Amend Section 13, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting it in its entirety and inserting in lieu thereof the following:

“Section 13. Vacancies; Forfeiture of Office; Filling of Vacancies

(a) Vacancies. The office of a council member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. A council member shall forfeit that office if the council member:

- (1) Fails to meet the residency requirements,
- (2) Violates any express prohibition of this charter,
- (3) Is convicted of a crime involving moral turpitude, or
- (4) Fails to attend three consecutive regular meetings of the council without being excused by the council.

In the case of any such vacancy or of any vacancy created by death, resignation or otherwise for which said vacancy shall be less than six months in duration, the office shall remain vacant. If such vacancy should be in excess of six months in duration, a special election shall be held to fill such vacancy, this special election to be held no sooner than 30 days from the date of the vacancy, but said special election to be held no later than 60 days after the date of the vacancy. If council fails to call for a special Election, the special Election shall be called by the Election Board.”

Section 14. Amend Section 16, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting it in its entirety and inserting in lieu thereof the following:

“Section 16. City Clerk

The city council shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this charter or ordinance or by the council or by state law.”

Section 15. Amend Section 17, Chapter 175, Volume 75, Laws of Delaware, as amended, by replacing “City treasurer” with “Controller/treasurer” throughout.

Section 16. Amend Section 18, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting "provided that no fine or penalty shall exceed the sum of \$1,000.00;" and inserting in lieu thereof "as penalties will be provided by the Dover Code of Ordinances".

Section 17. Amend Section 35, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting it in its entirety and inserting in lieu thereof the following:

“Section 35. Appointments and Removals.

Neither the city council nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the city manager or any subordinate of the city manager is empowered to appoint, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees. The city administrative officers and employees can be assured of due process in accordance with Title 19 of the Delaware Code.”

Section 18. Amend Section 36, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting it in its entirety and inserting in lieu thereof the following:

“Section 36. Interference with Administration.

Except for the purpose of inquiries, and investigations by council under Section 39, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.”

Section 19. Amend Section 39, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting it in its entirety and inserting in lieu thereof the following:

“Section 39. Investigations

The city council may make investigations into the affairs of the city and the conduct of any city department, office, officer, employee, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a Class A misdemeanor punishable by existing State Law.”

Section 20. Amend Secs. 40, 42, 45, and 46, Chapter 175, Volume 75, Laws of Delaware, as amended, by replacing "City treasurer" or "treasurer" with "Controller/treasurer".

Section 21. Amend Section 47, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting it in its entirety and inserting in lieu thereof the following:

"Section 47. General assessment; levy on utility property.

The City shall cause to be made a true, just, and impartial valuation and assessment of all real property within the city, locating each parcel of real property by street and number or other description. The valuation and assessment shall be made every three years by an assessor or assessors who shall be elected by the Council at its annual meeting by majority vote thereof. Before entering upon the duties of office, an assessor shall be sworn or affirmed by the Mayor to perform the duties of the assessor's office with fidelity and without favor or partiality.

Whenever Council shall direct, as set forth in Chapter 102, Section 102-1 of the Dover Code of Ordinances, all real property in the City of Dover shall be assessed by an outside appraiser chosen by Council every three (3) years. This assessment shall be in lieu of the valuation and assessment made by an assessor elected by Council as described herein above and in lieu of the assessor's duties described herein above.

In addition to the annual assessment, the assessor or assessors shall include supplemental assessments made annually for the purposes of (1) adding property not included in the last assessment or (2) increasing or decreasing the assessment value of property which was included in the last annual assessment.

The annual assessment date for all real property shall be January 1st of each year. The assessment of all property shall be at its true value in money as of the assessment date. True value in money shall be the fair market value.

The general assessment shall be set down by the assessor or assessors in two (2) or more copies, as the Council shall direct, and shall be delivered to the Council as soon as made. The Council shall, on the first day of April of each year, cause a copy of the general assessment to be posted in two (2) public places in the city for ten (10) days. The assessor shall notify the public of an appeal deadline of thirty (30) days from the date of general assessment posting.

The Council may direct that appeals from any assessment be heard by a committee, known as the Board of Assessment Appeals, of not less than three (3) members appointed by the Council. The Board of Assessment Appeals shall sit at a 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

Notice of the place and time that the Board of Assessment Appeals will sit to hear appeals shall be posted with the general assessment in two (2) public places for a period of ten (10) days. Notice of the posting of the copies of the general assessment and of the place and time of the meetings of the Board of Assessment Appeals shall be published in at least one issue of a newspaper published in the city.

The assessment as revised and adjusted by the Board of Assessment Appeals or Superior Court shall be the basis for the levy and collection of taxes for the city.

The Council shall have the right to levy and collect taxes on gas mains, telephone, telegraph, communications systems, or trolley poles or other erection of like character within the limits of the city, together with the wires thereon strung; and to this end the Council may at any time direct the same to be included in or added to the general assessment.

Nothing contained in this section shall be deemed or held to invalidate or otherwise effect any assessment made prior to the approval of this section or any tax levied thereunder."

Section 22. Amend Section 49A, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting the first and second paragraphs in their entirety and inserting in lieu thereof the following:

"In the event that the mayor and council of the City of Dover desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so provided that: At the beginning of each quarter of each year, there shall be an increase in the valuation and assessment of all newly constructed real property within the city, locating each parcel of real property by street and number or other description. Property shall be deemed to be newly constructed when the city permits occupancy and use (Certificate of Occupancy) or when new construction is being used or occupied for its intended purpose. The said valuation and assessment shall be made by an assessor or assessors who shall be elected by council in accordance with the provisions set forth in Section 47 of this Charter.

The aforementioned assessment shall be during the months of January, April, July, and October of each year. Any new construction with an added value of \$25,000 or less shall not be realized until the next annual assessment roll. The property owner may appeal any assessment for new construction in accordance with Section 47 of this Charter."

Section 23. Amend Section 50, Chapter 175, Volume 75, Laws of Delaware, as amended, by deleting subparagraph (c)(i) in its entirety and inserting in lieu thereof the following:

“(i) To finance public storm sewers, streets and appurtenances provided that no more than 1/4 of one percent (.25%) of taxable assessed value of real property of aggregate principal amount of bonds may be issued at any one time pursuant to this clause and any new bonds issued pursuant to this clause may not cause the total aggregate principal amount of bonds outstanding at any one time to exceed one percent of the total taxable assessment for a general tax at the time such new bonds are issued; and”

Section 24. This Act shall be effective upon its enactment in accordance with law.

Approved July 08, 2009