

CHAPTER 250
FORMERLY
SENATE BILL NO. 192

AN ACT TO AMEND THE CHARTER OF THE TOWN OF FENWICK RELATING TO
TOWN COUNCIL VACANCIES AND FORFEITURES.

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 §15, Volume 49, Chapter 302, Laws of Delaware as amended, entitled “An Act to Incorporate the Town of Fenwick”, by deleting §15 in its entirety and substituting in lieu thereof the following:

“Section 15. Vacancies and Forfeitures

A. Vacancies. The office of a Town Council member shall become vacant upon death, incapacity, resignation or forfeiture of such office. In case of vacancy created in the Town Council, by death, resignation or otherwise, the remaining members of the Council may fill such vacancy by appointment. The person so appointed shall serve for the unexpired term or until his or her successor shall be elected and duly qualified.

B. Forfeiture proceedings. A forfeiture of such office shall occur when any Town Council member:

(1) Is no longer qualified to hold such office;

(2) Willfully violates any provision of this Charter;

(3) Is convicted of any felony or crime involving any felony; or

(4) Fails to attend three (3) regular Town Council meetings per fiscal year without being excused by Town Council vote.

C. Determination concerning Forfeiture. Where the conditions set forth in Section 15(B), items (3) or (4) occur, forfeiture shall be automatic. Where the conditions set forth in 15(B), items (1) or (2) are alleged, forfeiture shall be approved by the remaining Town Council members. Such decision shall be made in executive session, and if the Town Council determines by majority vote that a forfeiture has occurred, it shall, within forty eight (48) hours thereafter, provide written notice thereof to the affected Town Council member, by certified mail, return receipt requested, sufficiently posted. Written notice shall be deemed provided when deposited in first-class mail with sufficient postage. The affected member shall be entitled to a hearing and then shall have thirty (30) days in which to make a written request for a public hearing before the Town Council, which hearing is to be held within forty five (45) days of the written request and at which hearing such member may appear with the assistance of counsel and present evidence to relevant issues. The Town Council shall also hear any other relevant evidence and vote again on the question of forfeiture. A determination of forfeiture shall be made only by unanimous vote of the Town Council members present and entitled to vote on the question.

D. Failure to Request Hearing as a Bar. Failure of the affected member to make written request for a public hearing as hereinabove stated shall be an absolute bar to his or her right to challenge the town Council's decision. If a public hearing is held, the Town Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done on behalf of the affected person if requested, in writing, by him/her.”

Approved May 03, 2010