

LAWS OF DELAWARE  
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152nd GENERAL ASSEMBLY  
FORMERLY  
SENATE BILL NO. 316

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SLAUGHTER BEACH RELATING TO ANNEXATION

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 the Charter of the Town of Slaughter Beach by making deletions as shown by strike through and insertions as shown by underline as follows:

§2A. Annexation of Territory. The Town may extend its municipal boundaries by annexing contiguous territory in accordance with the Delaware Code. Territory that is otherwise contiguous except for its separation from the Town's municipal boundaries by public roadway, street, thoroughfare, easement, or right-of-way is considered contiguous for annexation purposes. The Town shall consider annexations as follows:

2A.1 Annexation Request by All Property Owners of Contiguous Territory.

2A.1.1 All property owners of a territory contiguous to the Town's municipal boundaries may request, by written petition signed by each owner, the Town Council to annex the territory in which they own property. The annexation petition must include a description of the territory proposed for annexation, the reasons for annexation, and the proposed zoning classification.

2A.1.2 Upon receiving a request, the Town Council shall appoint an annexation committee consisting of three (3) individuals, one (1) of whom is a Town Council member, to investigate the potential annexation.

2A.1.3 Within ninety (90) days of the annexation committee's appointment, the annexation committee shall submit an annexation report to the Town Council that details the advantages and disadvantages of the annexation to the Town and to the territory proposed for annexation and includes a recommendation on whether to proceed with the annexation.

2A.1.4 If the committee concludes that the annexation is advantageous to both the Town and the annexation territory, then the Town Council may pass, by majority vote, a resolution annexing the territory to the Town. The resolution constitutes the final annexation approval, without following the procedures for annexations that are requested by less than all of the property owners or that are initiated by the Town Council.

2A.1.5 If the committee concludes that the proposed annexation is disadvantageous to either the Town or to the territory proposed for annexation and the Town Council decides to proceed with the annexation, then the Town Council shall follow the procedure for annexations proposed by less than all the property owners of a territory contiguous to the municipal boundaries.

2A.2 Annexation Request by Less Than All Property Owners of a Contiguous Territory.

2A.2.1 Less than all of the property owners of a territory contiguous to the Town's municipal boundaries may request, by written petition signed by the petitioning property owners, the Town Council annex the territory in which they own property. The petition must include a description of the territory requested to be annexed, the reasons for the annexation, and the proposed zoning classification.

2A.2.2 Upon receiving a request, the Town Council shall appoint an annexation committee consisting of three (3) individuals, one (1) of whom is a Town Council member, to investigate the potential annexation.

2A.2.3 Within ninety (90) days of its appointment, the annexation committee shall submit an annexation report in accordance with the requirements outlined in Section 2A.1.3.

2A.2.4 If the annexation committee concludes the proposed annexation is advantageous to both the Town and the territory proposed for annexation, the Town Council may adopt, by a majority vote of all elected Council members, a public hearing resolution to schedule a public hearing to annex the territory to the Town.

2A.2.5 If the committee concludes the proposed annexation is disadvantageous to either the Town or the territory proposed for annexation, the Town Council may adopt, by a super-majority vote of four-fifths (4/5) of the elected Council members, a public hearing resolution to schedule a public hearing to annex the territory to the Town.

2A.2.6 A public hearing resolution must describe the territory proposed for annexation, specify the proposed zoning classification, and specify the date, time, and location for a public hearing on the annexation. At least fifteen (15)

days prior to the date of the public hearing, the public hearing resolution must be published in a newspaper of general circulation in the Town and posted in at least two (2) public places.

2A.2.7 Following the public hearing, the Town Council may adopt a resolution establishing the date, time, and location of a special election to vote on the proposed annexation. After the Town Council adopts a special election resolution, the Town Council must proceed with the proposed annexation if the proposed annexation is approved by voters. The special election resolution must include a description of the territory proposed for annexation and the proposed zoning classification. The special election must be held in accordance with § 2A.3.

2A.3 Special Election to Vote on Proposed Annexation.

2A.3.1 The special election must be held not less than thirty (30) days or more than sixty (60) days after the public hearing.

2A.3.2 At least fifteen (15) days before the special election, the special election resolution must be published in a newspaper of general circulation in the Town, and posted in two (2) public places, both in the Town and in the territory proposed for annexation.

2A.3.3 At the special election, every resident of the Town or the territory proposed for annexation who are age eighteen (18) years old or older and every owner of property in the Town or in the territory proposed for annexation, including partnerships, trusts, companies, or corporations has one (1) vote. Each individual who jointly owns property has one (1) vote. A life tenant has one (1) vote as to the property held as a life tenancy but a holder of only a remainder interest may not vote. Only one (1) vote may be cast for a property held by a partnership, trust, company, or corporation. An individual, partnership, trust, company, or corporation does not have more than one (1) vote, regardless of how many parcels they own. Property owners whose property is exempt from taxation or is not assessed for taxation may not vote. The records of the Town and the records of Sussex County are conclusive evidence of ownership. Before voting at the special election, residents of the Town and residents of the property proposed for annexation shall provide proof of residency.

2A.3.4 The vote of a partnership, trust, company, or corporation must be cast by an individual with a power of attorney authorizing the individual to vote at the special election. The power of attorney must be filed with the Town. The power of attorney is conclusive evidence of the right to vote in the special election.

2A.3.5 The Town shall use a form ballot that includes the following choices:

- (a) For the proposed annexation.
- (b) Against the proposed annexation.

2A.3.6 The Town Council shall appoint three (3) persons, who must be residents of the Town, to act as a Board of Special Elections. The Board of Special Elections shall resolve, by majority vote, any disputes regarding voter qualification. Voting must be conducted in a public place, with one (1) voting machine for residents and property owners of the Town to vote and another voting machine for residents and property owners of the territory proposed for annexation to vote. The polling place must be open for at least five (5) hours on the date of the special election. All persons in the polling place when the polls close may vote, even though the votes are not cast before the polls close.

2A.3.7 Immediately after closing the polls, the Board of Special Elections shall count the votes, make a certificate of the results, and deliver the certificate of results to the Town Council.

2A.3.8 The territory proposed for annexation is annexed if a majority of the votes cast from residents and property owners of the Town and a majority of the votes cast from residents and property owners of the territory proposed for annexation have been cast in favor of the annexation.

2A.3.9 If the voters approve the annexation, then within sixty (60) days of the special election the Town Council shall record a description and a plot of the annexed territory in the Sussex County Office of the Recorder of Deeds. Failure to record the description does not invalidate the annexation, and the territory is part of the Town from the earlier of the following:

- (a) The date the description is recorded.
- (b) Sixty (60) days after the special election is held.

2A.3.10 If the voters do not approve the annexation, then the territory proposed for annexation may not be reconsidered for annexation for at least one (1) year from the date of the special election.

2A.4 Highways, Streets, Roads, and Alleys Adjacent to the Annexed Parcel. If the Town Council authorizes an annexation, then all highways, streets, roads, and alleys immediately adjacent to the annexed parcel up to the centerline, are annexed into the Town.

2A.5 Actions Contesting Annexation. No action contesting the annexation of any territory may be brought after the expiration of sixty (60) days from the publication of a notice in a newspaper of general circulation in the Town and the annexed territory.

2A.5.1 The public notice published under § 2A.5 must contain the following information:

(a) Notice that the Town has annexed territory and a description of the territory annexed.

(b) Notice that any individual or other legal entity desiring to challenge the annexation must bring an action within sixty (60) days from the date of publication of such notice or be forever barred from doing so.

2A.5.2 In addition to publication under § 2A.5, the Town Council must post a public notice containing the same information required under § 2A.5.1 in at least two (2) public places in the Town, viewable to the public. One of the places where public notice is posted must be in the territory annexed.

2A.5.3 If the publications and postings do not appear on the same date, the date of the first publication or posting controls.

Approved August 29, 2024