



SPONSOR: Rep. Postles & Sen. Bonini

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 388

AN ACT TO AMEND THE CHARTER OF THE TOWN OF BOWERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend Section 3, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as
2 shown by underlining and deletions as shown by strike through as follows:

3 (a) Town Council and Mayor

4 The Government of the Town of Bowers and the exercise of all powers conferred by this Charter except as
5 otherwise provided herein shall be vested in a Town Council, consisting of four members and a Mayor, to be chosen for
6 two year terms as hereinafter provided. They shall serve without compensation. Each Council member and the Mayor shall
7 be at least the age of eighteen years and at the time of the election and during the term of office reside within the Town. The
8 word reside shall mean domicile. The Mayor shall have all the powers of councilman and whenever the word "council" is
9 used herein it shall include the Mayor. If at any time during the terms of the said councilmen they fail to comply with the
10 aforesaid residence requirements, they shall ipso facto vacate their office. The Town Council, by majority vote of its
11 disinterested members, shall be the sole and final judge of the qualifications of its members.

12 Section 2. Amend Section 5, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as
13 shown by underlining and deletions as shown by strike through as follows:

14 Section 5. ~~Nominations for Councilman~~ Election notices; filing deadline

15 (a) ~~Nominations~~

16 ~~Nominations of candidates for Councilman or Mayor shall be by petition of the person desiring to be a candidate~~
17 ~~and filed with the Secretary of the Council on or before 4:30 p. m., prevailing time, on the second Monday preceding the~~
18 ~~annual Town election. Whenever a petition nominating a person for the office of councilman or Mayor shall have been filed~~
19 ~~as above prescribed, the name of such person shall be printed on the ballot for the regular Town election as a candidate for~~
20 ~~the office for which he was nominated, provided he meets the qualifications as prescribed under this Charter. The Council~~
21 ~~shall judge the qualifications of the candidate so nominated on the second Monday preceding the annual Town election and~~
22 ~~after 4:30 o'clock p.m. prevailing time of that said day.~~

23 (a) Notice of solicitation of candidates shall be posted conspicuously within the Town at least twenty (20) days
24 prior to the filing deadline to run for the offices up for election and shall include the terms of the offices up for election, the
25 qualifications to run for each office, and the filing procedures and deadline to run for office. All notices shall be sent to the
26 Department of Elections within three (3) business days of posting the same and shall be posted on any website operated by
27 the Town.

28 (b) In order to be listed on the ballot at any regular Town election, each candidate shall file a written and signed
29 notice of intention to seek office with the Town, on a form prescribed by the Town, before five o'clock in the afternoon on
30 the last Friday in June. Such form shall identify the office the candidate is running for and shall contain a signed statement
31 that the candidate meets all the qualifications for office. No later than one (1) business day following the filing deadline, the
32 Town shall submit the names of the candidates for each office up for election to the Delaware Department of Elections. The
33 Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with
34 controlling state or federal law, governing the notice of solicitation of candidates.

35 (c) The Council Secretary shall review all notices of intention to seek office for compliance with the qualifications
36 for office, and if the Council Secretary determines that any candidate may not meet the qualifications for office, the
37 prospective candidate shall be notified of such and a special meeting of the Town Council shall be called and held no fewer
38 than twenty-one days prior to the date set for the election, at which the Town Council shall decide the matter. The candidate
39 whose qualifications are at issue shall be notified, by registered mail, of the date, time and place of the hearing, at which
40 he/she may appear and testify. If the Town Council determines that the candidate does not meet the qualifications for office,
41 it shall reject his/her notice of intention to seek office and his/her name shall not appear on the ballot. In making the
42 determination, only those members of the Town Council who are not competing for that seat shall be entitled to vote on the
43 question.

44 (d) All candidates shall file a certificate of intention or statement of organization if either is applicable and
45 required under 15 Del. C. Ch. 75 ("Municipal Elections") as it may be hereby amended from time to time, and any other
46 existing or future corresponding provisions of law.

47 (e) Notice of elections shall be posted in a conspicuous public place within the town no later than twenty (20) days
48 prior to the election date. The notice of elections shall include the date, time, and place of the election, the names of the
49 candidates for each office, and the qualifications to vote. The Town Council may, by ordinance or resolution, adopt such
50 rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the notice of
51 elections. All notices shall be sent to the Department of Elections within three (3) business days of posting the same and
52 shall be posted on any website operated by the Town.

Section 3. Amend Section 6, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) ~~Date, Notice, Ballots~~ Election Date

Annual Town elections shall be held on the first Saturday in August ~~from 2:00 o'clock P.M. until 7:00 o'clock P.M., prevailing time,~~ at such place as shall be determined by the Council, with the polls remaining open for at least four (4) hours. ~~due notices of which shall be given by posting notices thereof in three of the most public places within the corporate limits of the Town not less than seven days prior to the day of such annual election. The Council shall have prepared sufficient ballots which will entitle all eligible voters to vote at such election and which shall contain the names of all persons properly nominated and under proper headings designating the offices for which nominated. Such ballots shall be delivered to the Election Board and every eligible voter shall receive one from the said Board during the hours of the said annual election. In the event voting machines are required, the ballots shall be prepared in accordance with the election laws of the State of Delaware.~~

(b) Election Board

~~Every election shall be held under the supervision of an Election Board which shall consist of three qualified voters of the Town appointed for that purpose by the Council. If any member of the Election Board be absent at the opening of the polls then in such case the remaining members of the Board shall select a qualified voter to act as a member of the Election Board. Members of the Election Board shall be Judges of the Election and shall decide upon the legality of the votes offered and they shall keep a true and accurate list of all voters voting.~~

Every election shall be held under the supervision of a Board of Elections. The Board of Elections shall have an odd number of members consisting of no fewer than three (3) persons (as determined by the Town Council) who shall be qualified voters of the Town and shall not be an elected official or candidate for Town office or an immediate family member of such (mother, father, spouse, son, daughter, brother, sister, including half-brothers and sisters, step-family members and in-laws) and who shall be appointed for that purpose by the Town Council. The Board of Elections shall serve for a term of one year commencing at the meeting at which the Board is appointed, provided that the term of the Board of Elections shall in no instance expire until a successor Board of Elections has been appointed. Members of the Board of Elections may serve multiple terms. The Town Council may appoint one (1) or more individuals to serve as alternate Board of Elections members. Each board member shall be confirmed and have his/her name and contact information publicly posted in accordance with 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. The Town shall notify the State Election Commissioner and Department of Elections of the members appointed to the Board of Elections. If, at the opening

83 of the polls, there shall not be present all the members of the Board of Elections, the ranking Town officer available at the
84 opening of the polls shall appoint a qualified voter or voters to act as a member or members of the Board of Elections to fill
85 such vacancies caused by the absence of the previously appointed member(s) of the Board of Elections through the
86 conclusion of the election. Subject to any legal rights to appeal, members of the Board of Elections shall be the sole and
87 final judges of the conduct of the election and of the legality of the votes offered. The Board of Elections shall keep a list of
88 all voters voting at said election. The Board of Elections shall have the power to subpoena persons, and officers of the
89 Town, and books, records and papers relative to the determination of the qualifications of voters and the legality of any vote
90 or votes offered. The Town Council may appoint election officers (including an inspector) when needed to administer
91 elections. In the absence of the appointment of election officers by the Town Council at least fifteen (15) days prior to the
92 election date, members of the Board of Elections shall either (i) act as election officers, designating one of the board
93 members as the inspector, or (ii) appoint such number of election officers (including an inspector) as deemed necessary by
94 the Board of Elections.

95 (e) ~~Persons qualified to vote. Manner of voting~~

96 ~~At such election every person, male or females above the age of twenty-one years who shall have been a bona fide~~
97 ~~resident of the Town of Bowers for at least thirty days immediately preceding any such election, or whoever not being a~~
98 ~~resident of the town is a real property owner and in the town shall have one vote. All votes shall be offered in person. Every~~
99 ~~person, to be eligible to vote in any town election shall be registered with the Secretary at least thirty (30) days prior to the~~
100 ~~town election in a manner prescribed by the town council.~~

101 (e) ~~Counting Votes, Tie~~

102 ~~Upon the close of the election the votes shall be read and counted in public and the person having the highest~~
103 ~~number of votes for each office shall be declared, by the Election Board, to be duly elected to serve the term for which he~~
104 ~~was chosen. In the event of a tie vote for any office, the Election Board shall break the tie by lot.~~

105 (f) ~~Certificates of Election, Preservation of Ballots~~

106 ~~The Election Board shall enter in a book to be provided for that purpose, minutes of the election, containing the~~
107 ~~names of the persons chosen and they shall subscribe to the same and shall give to the persons elected certificates of their~~
108 ~~election. The book containing such matters, shall be preserved by the Town Council and shall be evidence in any Court of~~
109 ~~Law and Equity. All ballots cast and all records of the election shall be preserved in the custody of the Election Board for a~~
110 ~~period of twenty days.~~

111 (c) Voter Qualifications. Any person shall be qualified to vote who, on the date of the election, is a United States
112 citizen, has attained eighteen (18) years of age, and, for a period of not less than thirty (30) consecutive days immediately

preceding the date of the election has been either: (a) a freeholder in the Town or (b) has been domiciled in the Town. For purposes of this Charter: (i) a 'freeholder' shall be deemed to include any natural person who holds title of record either in his/her own name or as trustee to a fee simple estate or to a life estate, in and to real property located within the Town boundaries; (ii) 'domiciled' shall mean physically residing in that place where a person has his/her true, fixed, and permanent home and principal establishment, and to which, whenever he or she is absent, that person has the intention of returning; provided, however, that absence from one's place of domicile for some temporary purpose shall not terminate that domicile so long as the intention to return to that place remains fixed, certain, and constant during the period of physical absence. These rules shall be construed in accordance with the principle of 'one-person-one vote'. When a voter is entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one vote; where a voter is entitled to vote by virtue of ownership of two or more properties in the Town, that voter shall be entitled to only one vote.

(d) Persons appearing to vote shall present proof of identity and address pursuant to 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. All questions regarding an individual's qualification to vote raised prior to the day of the election shall go before the Board of Elections, and an individual shall be given notice and an opportunity to be heard before the Board of Elections makes a determination regarding that individual's qualifications to vote. Questions regarding an individual's qualifications to vote that are raised at the time of voting shall be resolved by the Board of Elections or its designated election officers. The Town Council may enact such ordinances concerning the registration of qualified voters for municipal elections in the Town as it deems reasonably necessary to provide for the orderly and efficient conduct of municipal elections; provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor shall any such ordinances unduly impair the right to vote in a municipal election.

(e) Voting Machines. Elections shall be by voting machine provided by the Department of Elections in accordance with 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law.

(f) Conduct of Elections. The Town Council shall follow the rules governing the conduct of elections and voting procedures found in 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other existing or future corresponding provisions of law. The Town Council may, by ordinance or resolution, adopt such rules, not inconsistent with the provisions of this Charter or with controlling state or federal law, governing the conduct of elections.

142 (g) Election Results; ties; preservation of ballots and records. Within forty-eight (48) hours of the close of the
143 election, the Board of Elections shall count the votes, and the candidate(s) having the highest number of votes for each
144 office shall be certified by the Board of Elections to be duly elected to such office. In the event of a tie vote for any office,
145 the inspector, or in the absence of an inspector a member of the Board of Elections, shall break such tie by the toss of a
146 coin. All ballots cast and all records of the election kept by the Board of Elections shall be preserved in the custody of the
147 Board of Elections for a period of thirty (30) days, unless the election is contested or an appeal is filed in a court of
148 appropriate jurisdiction in which case such ballots and records shall be preserved until further direction of the reviewing
149 body or court having jurisdiction.

150 (h) Election Record Book. The Board of Elections shall enter in a book, to be provided for that purpose, the results
151 of the election, containing the names of the persons elected. The members of the Board of Elections shall subscribe the
152 same. The book, containing such matters, shall be preserved by the Town Council. Failure to keep such a book shall have
153 no effect on the validity of an election.

154 (i) Uncontested Elections. In the event that the number of individuals filing or nominated for office is equal to or
155 less than the number of seats up for election, those individuals who filed or were nominated shall be deemed to be elected
156 for a full term and it shall not be necessary to have an election.

157 (j) Compliance with State Regulations. The Town shall act in accordance with the state laws governing municipal
158 voting found in 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and any other
159 existing or future corresponding provisions of law, and the Town shall implement the election provisions found in this
160 Charter in accordance with the state laws governing municipal voting.

161 Section 4. Amend Section 7, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as
162 shown by underlining and deletions as shown by strike through as follows:

163 (a) Oaths; Officers

164 The Council at their first regular meeting or special meeting held at least seven (7) days following the certification
165 of the annual election ~~after said election~~ shall meet first for the purpose of organization and the newly elected officers shall
166 assume the duties of their respective offices, being first duly sworn to perform their duties with fidelity, which oath shall be
167 taken before a Notary Public, Justice of the Peace or by a holding over member of the Council. The Council shall select a
168 Vice-Mayor, a Secretary and a Treasurer from their own number to serve until the next annual organization meeting. They
169 also may choose an Assistant Secretary and an Assistant Treasurer outside their number to serve until the next annual
170 organization meeting. The Assistant Secretary and Assistant Treasurer shall receive such compensation as may be set by

Council. The Assistant Secretary and Assistant Treasurer may be the same person. The Vice-Mayor shall exercise the powers and duties of the Mayor in his absence or disability.

Section 5. Amend Section 8, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) Regular Meetings

The Town Council shall hold one regular meeting every month and such meeting shall be held ~~on the second Thursday of each and every month~~ on a day of the month and at a time and place within the corporate limits of the Town of Bowers as designated by the Council.

Section 6. Amend Section 9, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) Quorum

A majority of the members elected to the Council shall constitute a quorum, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by a majority of the entire Council. No ordinance, resolution, motion, order, or other act of the Town Council, except as herein specifically authorized, shall be valid unless it receives the affirmative vote of a majority of all members of the Town Council.

Section 7. Amend Section 13, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) Duties

The Treasurer shall be custodian of all the Town funds and shall deposit them in such banking institutions as may be designated by the Council. The Treasurer shall pay out no money except upon check or warrant countersigned by the ~~President or Secretary~~ Mayor or a member of Council and authorized by the Council. He shall keep a true, accurate and detailed account of all money received and of all money paid by him, and his books and accounts shall be open to the inspection of the Council at all times. He shall make such reports as required by the Council and shall file a bond with corporate surety with the Council for the faithful performance of his duties, in such form and for such amount as the Town Council shall direct. He shall have such other powers and perform such other duties as prescribed by this Charter and by the Council.

Section 8. Amend Section 15, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) Organization

~~It shall be the duty of the Council to~~ The Council may appoint a Police Force, consisting of a Chief of Police and such number of subordinates as the Council may deem necessary. The Council shall from time to time make rules and regulations necessary for organization, government and control of the Police Force. The members of the Police Force shall be subject to the direction of the Town Council and may be removed by the Council at any time. They shall preserve peace and order, and shall compel obedience within the limits of the Town to the Town ordinances and State laws, and shall have such other duties as the Council from time to time, prescribe.

Section 9. Amend Section 16A, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c) Recovery of Collection Expenses. Whenever it becomes necessary or expedient for the Town to take legal action to collect delinquent Town taxes, the Town is authorized to add to the delinquent taxes the expenses incurred by the Town in the collection of the delinquent taxes, including court costs, reasonable attorneys' fees, and other documented out-of-pocket expenses incurred by the Town, which expenses may be collected in the same manner as delinquent taxes.

Section 10. Amend Section 20, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c) Contracts; franchises; permits; public places; peddlers

THE TOWN shall, in a like manner, have the power to prescribe the manner in which all contracts for performing work or furnishing materials for the Town shall be made and executed, to prescribe the manner in which corporations or persons shall exercise any privileges granted to them in the use of any street, avenue, highway, alley, beach or strand in said Town, or in digging up any street, avenue, highway, or alley, beach or strand for the purpose of laying down pipes, or for any purpose whatsoever, and to prohibit and prevent any such use or work at such times and seasons of the year as they may designate, to enter into contract or contracts with, or to grant franchises, concessions, or right to any person, firm, partnership or corporation who may apply for the use of any street, highway, avenue, lane, alley, beach or strand for the purpose of furnishing communication services, electric lights, power, gas, heat or water to said Town and its inhabitants, or for the constructions and operation of railways route, grant franchises to and enter into contract or contracts with other public carrier or for the construction and operation of sewer or other sanitary systems of drainage or for the erection of wharves or piers; to regulate, protect and improve the public places of every description in said Town; to prescribe and regulate the places of vending or exposing for sale of any and all articles of merchandise from wagons or other vehicles; to regulate the use of public parking areas in the Town .

Section 11. Amend Section 21, Chapter 279, Volume 53, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) Generally

~~In addition to the power to impose fines and penalties for the maintenance of obstructions, nuisances, or unsanitary conditions, as these terms shall be defined by the Town Council either upon their own inspection or upon information obtained from the Board of Health, Police Force, or citizens of the Town, if the Town Council shall deem that such obstruction, nuisance, or unsanitary condition should be removed or abated, as the case may be, the Town Council shall enact an ordinance or adopt a resolution, or both, to that effect, and thereupon shall direct the Secretary to forward by registered mail of the United States, in a sealed wrapper, addressed to his or her last known post office address or deliver personally to the person or persons continuing or causing such obstruction, nuisance, or unsanitary conditions, or to the person or persons who are responsible for its existence or continuance a notice to remove or abate the same. If such person or persons refuse or neglect, for the space of fifteen (15) days after such notice is mailed or for the space of two (2) days if said notice is delivered in person, to remove or abate the same, the Town Council shall issue a warrant in the name of the TOWN OF BOWERS, commanding such person or persons forthwith to remove or abate such obstruction, nuisance, or unsanitary condition, and shall forthwith proceed to remove or abate the same and, to that end, shall have full power and authority to enter into and upon any lands and premises within the limits of the Town. The Town Council, or anyone designated by them, shall likewise have the authority to take with them such assistants, implements, machinery or other things as may be necessary and proper to do and perform all matters and things in connection with the removal or abatement of such obstructions, nuisance, or unsanitary condition. At the next regular or special meeting of the Town Council, the Town Council shall specify the costs and expenses of all necessary work, labor and proceedings incurred in the abatement or removal of the same. The Town Council shall then issue a warrant, containing an itemized account thereof, together with the name and last known address of the person from whom the Town Council shall have determined the amount due and shall deliver such warrant to the Treasurer of the Town. The warrant shall command the Treasurer forthwith to collect the amount stated to be due thereon from the person or persons designated therein. The Treasurer shall forward to such person or persons in a sealed wrapper a true and correct copy of the warrant by depositing the same in the United States mail and addressed to such person or persons last known post office address or serve personally upon said person if he be within the limits of the Town. If such person or persons shall refuse or neglect to pay the same within thirty (30) days from the date of the mailing of such notice and exact copy of the warrant, or the service of the same personally upon such person or persons, the Treasurer shall then be authorized and required to collect the same in the same manner as herein provided for the collection of delinquent Town taxes.~~

The Town Council may, by ordinance, define, prevent, abate, or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and to cause the costs of such abatement or removal to be paid

261 by the legal entity or individual causing or permitting the same to exist, which costs may be collected in the same manner
262 as delinquent Town taxes.

263 (b) The Town Council may adopt ordinances providing for the condemnation, upon inspection, of any building or
264 structure in the Town which is determined, on the basis of standards set forth in such ordinance(s) to be a fire hazard or
265 otherwise unsafe, and cause the same to be torn down or removed; and to cause the cost of such demolition and removal to
266 be paid by the individual or legal entity causing or permitting the same to exist, which costs may be collected in the same
267 manner as delinquent Town taxes.

SYNOPSIS

Section 1 authorizes the disinterested members of the Town Council to determine if a council member meets the qualifications to be on council.

Section 2 outlines the requirements for publishing a notice of solicitation of candidates for municipal elections, the filing requirement to run for Council, the procedures for resolving disputes over an individual's qualifications to run for Council, and the notice of election requirements.

Section 3 eliminates the prescribed time frame for having the polls open on the day of the municipal election and requires the polls to be open for at least 4 hours. Section 3 clarifies the duties of the Board of Elections, clarifies the qualifications to vote in an election, provides details regarding voting procedures and the conduct of the elections, and specifies the need for the Town to comply with 15 Del. C. Ch. 75 ("Municipal Elections").

Section 4 prohibits council members from taking office sooner than 7 days following the certification of the election.

Section 5 eliminates a specific day of the month that the Town Council is required to meet.

Section 6 requires the Town Council to act by a majority vote of the entire Town Council (and not just a majority of a quorum present at a meeting).

Section 7 corrects an erroneous reference to the Council president and authorizes the Mayor or a member of Council to countersign checks.

Section 8 eliminates the requirement that the Town Council appoint a police force.

Section 9 authorizes the Town to recover from property owners those expenses incurred by the Town in the collection of delinquent Town taxes.

Section 10 authorizes the Town to regulate public parking areas in Town.

Section 11 eliminates detailed nuisance abatement procedures and authorizes the Town to adopt ordinances regulating nuisances and dangerous buildings. The Town is authorized to collect from the property owners, in the same manner as it collects delinquent taxes, those expenses incurred by the Town in abating a nuisance or dangerous building.