



SPONSOR: Sen. Paradee & Rep. Yearick

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 57

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

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 5 of the Charter of the Town of Wyoming by making deletions as shown by strike
2 through and insertions as shown by underline as follows:

3 5. ~~Organization and~~ Annual Organizational Meeting of Council.

4 5.1 The Council members elect shall attend all meetings of the Town Council from the date of the election until
5 ~~the members elect are sworn in as provided below. The first Monday in May following the annual election each year the~~
6 ~~Council shall meet, and the newly elected officers shall assume the duties of office. The Town Council shall meet to~~
7 ~~organize as soon as practicable after the sixth day after the certification by the Election Board of the results of an annual~~
8 ~~election.~~

9 5.2 Before entering upon the duties of their offices, the newly elected members shall be sworn by a Notary Public,
10 ~~a Justice of the Peace, elected officials both state and county presently in office or by a holdover Member of the Council to~~
11 ~~faithfully and impartially perform their duties. Before a newly-elected member of the Town Council enters upon the duties~~
12 ~~of the member's office, the member shall take an oath to faithfully and impartially perform the duties of the member's~~
13 ~~office. The oath may only be administered by a notary public, justice of the peace, elected state or county official, or a~~
14 ~~holdover member of the Council.~~

15 5.3 At the organizational meeting, the Council shall organize and thereafter shall hold meetings at such times as
16 ~~hereinafter provided. After the Town Council is organized under this section, the Council shall hold meetings as provided~~
17 ~~under Sections 6 and 13 of this charter.~~

18 Section 2. Amend Section 11 of the Charter of the Town of Wyoming by making deletions as shown by strike
19 through and insertions as shown by underline as follows:

20 11. Filling Vacancies.

21 ~~When a Town Council vacancy is created pursuant to Section 9 and/or 10 above, and the next annual Town~~
22 ~~Election is more than four months from the date of the vacancy, the remaining members of the Town Council shall, within~~

45 days from the date of such vacancy, elect, by a majority vote, another qualified person to fill that vacant seat until the next ensuing regular municipal election in accordance with the provisions of this section.

Any member of Council intending to nominate a person to fill the vacancy shall provide written notice of such nominee's name to the Town Clerk not less than seven days prior to the meeting at which the nomination shall be made, and the public notice of that meeting as required by the Delaware Freedom of Information Act shall identify the name(s) of the person(s) who are to be nominated at that meeting. No person shall be nominated whose name has not been identified in the public notice as specified herein. Unless two or more persons are nominated to fill the vacancy, the person so nominated shall be deemed elected if two or more members of Council vote in favor of electing such person to fill the vacancy. If two or more persons are nominated, then the nominee receiving the highest number of Council votes shall be elected. In the event of a tie vote, the tie shall be decided by the toss of a coin.

11.1 When a vacancy in the office of Mayor or member of Town Council occurs under Section 9 or 10 of this charter, the remaining members of the Town Council may elect another qualified individual to fill the vacancy until the next annual election.

11.2 At the next ensuing regular municipal election, At the next annual election, the qualified voters of the Town shall elect a qualified candidate to fill the seat vacancy for the remainder of the original term.

11.3 Each such vacancy shall must be separate and distinct from any other such vacancy and from the full term seats to be filled at such the election and shall must be so designated on the ballot.

11.4 The written notice of candidacy for election to fill a vacancy under this section shall must specify the vacant seat for which the notice of intention to run is made, and no made.

11.5 A candidate shall may not file a notice of intention to run for more than one seat.

11.6 The candidate receiving the highest number of votes for each such vacant seat shall vacancy is to be declared the winner.

Section 3. Amend Section 14.1 of the Charter of the Town of Wyoming by making deletions as shown by strike through and insertions as shown by underline as follows:

14. Officers.

14.1 Appointment.

14.1.1 The Mayor of the Council shall be a member of the Council.

14.1.2 The Town Council shall, at the annual organizational meeting held on the first Monday in May following the annual election, under Section 5 of this charter, organize by electing a Vice Mayor, a Secretary Secretary, and a Treasurer.

53 14.1.3 The Town Council shall designate a Town Finance Clerk, who shall also be the Collector of Taxes.

54 14.1.4 The Council shall appoint a Town Solicitor, a Town Clerk, and an Auditor.

55 14.1.5 The Mayor and Council shall also elect and appoint ~~any~~ such other officers, ~~employees and~~ employees,
56 or agents of the Town which the Council deems proper and necessary for the proper conduct and management of the
57 Town.

58 14.1.6 ~~Any appointed officer may be removed at any time by the Town Council for cause. Except as~~
59 otherwise provided under Sections 14.10 and 14.11 of this charter, an appointed officer, employee, or agent hired
60 without an employment contract is employed on an at will basis and may be removed by the Town Council at any time,
61 with or without cause.

62 Section 4. Amend Section 14.4 of the Charter of the Town of Wyoming by making deletions as shown by strike
63 through and insertions as shown by underline as follows:

64 14. Officers.

65 14.4 Duties and Power of Mayor.

66 14.4.1 The Mayor shall preside at all meetings of Council; shall serve as the head of the Town
67 government for all ceremonial purposes and for purposes of military law; shall appoint all committees, subject to
68 Council confirmation, and shall have general superintendence of all municipal affairs.

69 14.4.2 The Mayor shall receive complaints of violations of laws or ordinances and present the ~~same~~
70 complaints to Council at its first meeting thereafter for action of Council; ~~notwithstanding the foregoing, no~~
71 Council. Notwithstanding this paragraph 14.4.2, action to enforce the laws or ordinances of the Town shall may
72 not be invalidated as a result of the ~~same complaint~~ not being presented to the Town Council.

73 14.4.3 The Mayor shall sign all warrants on the Treasurer for the payment of any Town money and shall
74 perform such other duties as may be prescribed by Resolution or Ordinance of Council.

75 14.4.4 The Mayor ~~shall have~~ has the same right as other officers and Council members to vote on all
76 matters and may, at any time, appoint another officer or Council member to preside if ~~he~~ the Mayor desires to
77 make a motion, move the adoption of a resolution, second either, or debate any question from the floor and may,
78 thereafter, immediately resume ~~his/her~~ the Mayor's duties as presiding officer.

79 14.4.5 For purposes of ~~establishing a majority vote or voting or establishing a~~ quorum, the Mayor ~~shall~~ is
80 to be counted as a member of Council.

81 14.4.6 If the Mayor ~~be~~ is incapacitated from acting by reason of absence, or for any other cause
82 whatsoever, then all powers and duties conferred and imposed ~~upon him/her by this Act,~~ on the Mayor by this

83 ~~charter~~ or any other Law, ~~or any resolution or ordinance now or thereafter~~ law, resolution, or ordinance adopted or
84 enacted by ~~Council, shall~~ Council is to be exercised and performed by the Vice-Mayor chosen by Council as
85 acting Mayor for the period of ~~such~~ the incapacity.

86 14.4.7 The Mayor ~~shall~~ is to serve a term of ~~three~~ 3 years.

87 14.4.8 The Mayor ~~shall be authorized to~~ may act on behalf of the Town, without prior Council approval,
88 ~~in the event of some~~ if a sudden emergency occurs requiring prompt action ~~in order~~ to protect the public health,
89 safety, and welfare of the Town, Town and its residents and property owners.

90 14.4.8.1 A 'sudden emergency' for purposes of this section shall include, by way of example and not
91 in limitation, ~~a major fire or conflagration, significant flooding, a serious storm threatening significant~~
92 ~~damage, a civil disturbance, or a toxic spill.~~ A "sudden emergency" shall also include any emergency situation
93 as declared by any county, state, or federal agency having jurisdiction over the Town where the scope of the
94 emergency so declared includes the Town of Wyoming. As used in paragraph 14.4.8 of this section, "sudden
95 emergency" includes all of the following:

96 14.4.8.1.1 A major fire or conflagration.

97 14.4.8.1.2 Significant flooding.

98 14.4.8.1.3 A serious storm threatening significant damage.

99 14.4.8.1.4 A civil disturbance.

100 14.4.8.1.5 A toxic spill.

101 14.4.8.1.6 An emergency situation declared by a county, state, or federal agency having
102 jurisdiction over the Town and the scope of the emergency includes the Town.

103 14.4.8.2 If reasonably possible, the Mayor shall notify each council member, in writing, by U.S.
104 mail, personal delivery, fax, or email of the action ~~so~~ taken under paragraph 14.4.8 of this section within
105 ~~forty-eight (48) hours.~~ 48 hours. Notice ~~shall be complete upon~~ is complete by depositing ~~such~~ the notice in
106 the U.S. Mail, proper postage affixed, to each council member at ~~his/her~~ the member's last known address, by
107 personal delivery, or by confirmation of receipt of a fax or an email transmission.

108 14.4.8.3 ~~Any~~ An action taken by the Mayor under ~~the powers vested in him/her under this section~~
109 ~~shall be~~ paragraph 14.4.8 of this section is as good as the act of the entire Council, ~~provided that~~ Council.
110 However, the Council may at a regular or special meeting held within ~~fifteen (15)~~ 15 days of the Mayor's
111 action, cancel the further implementation of any such action not yet completed and notify any persons or legal
112 entities affected.

Section 5. Amend Section 14.11 of the Charter of the Town of Wyoming by making deletions as shown by strike through and insertions as shown by underline as follows:

14. Officers.

14.11 Police Chief.

14.11.1 The Council may appoint a Chief of ~~Police whenever the Council may deem it wise to do so.~~
Police.

14.11.2 The Chief of Police shall be subject to the direction of the Council, and may be dismissed, demoted, or otherwise removed by the Council ~~in accordance with 11 Del.C. Ch. 93 ('Police Chief Due Process') under Chapter 93 of Title 11 of the Delaware Code (regarding police chief due process), as may be hereafter amended or in accordance with amended, or any future corresponding provisions of law or other applicable law.~~
provision of law.

14.11.3 ~~Operational~~ The Chief of Police is responsible for the operational control of the daily routine and responsibilities of the police ~~force shall be the responsibility of the Chief of Police. The force.~~ However, the authority of the Chief of Police ~~shall be~~ is subordinate and answerable to the Mayor and the Council.

14.11.4 The Council may hire the Chief of Police under the terms of an employment contract, and the Council may elect to not renew the Chief of Police's employment contract without a finding of just cause or holding a hearing under Chapter 93 of Title 11 of the Delaware Code, as amended, or any future corresponding provision of law.

Section 6. Amend Section 14 of the Charter of the Town of Wyoming by making deletions as shown by strike through and insertions as shown by underline as follows:

14. Officers.

14.12 Town Manager.

14.12.1 The Town Council may appoint a Town Manager to be the Chief Administrative Officer of the Town at such compensation as determined by the Town Council. The Town Council shall establish the necessary qualifications to serve as Town Manager, but neither the Mayor nor a member of Council may be appointed as Town Manager during that individual's term of office.

14.12.2 The Town Manager may be employed as an at will employee or subject to the terms of an employment contract.

14.12.3 The Town Manager is responsible for the proper administration of the affairs of the Town of Wyoming as prescribed in this charter, an employment contract, or any ordinances or resolutions of the Town Council.

14.12.4 On the death, resignation, temporary absence or disability, or removal from office of the Town Manager, the Town Council may designate a qualified individual as Acting Town Manager to perform the duties of the office during the Town Manager's absence or disability or until another Town Manager is appointed.

Section 7. Amend Section 15 of the Charter of the Town of Wyoming by making deletions as shown by strike through and insertions as shown by underline as follows:

15. Assessment of Taxes.

(J) Supplemental Assessment. In addition to the annual assessment provided for in this section, the Town may, at the option of the Town Council, prepare quarterly supplemental tax assessments, which are to be based on quarterly supplemental tax assessments prepared by Kent County, for the purpose of adding property not already valued and included in the last assessment and revising the valuation and assessment of all real property which has undergone some significant change of condition that materially changes the true market value thereof since the last assessment. The Town Finance Clerk shall allow a 3% discount on supplemental taxes paid within 30 days of the mailing of a supplemental tax invoice. Supplemental taxes paid more than 90 days after the mailing of a supplemental tax invoice are to be assessed penalties and subjected to the collection procedures under Section 17 of this charter.

Section 8. Amend Section 17 of the Charter of the Town of Wyoming by making deletions as shown by strike through and insertions as shown by underline as follows:

17. Collection of Taxes and Other Charges.

17.1 The Town Finance Clerk shall prepare the annual assessment list of real property assessments, which list shall assessments. The list must be prepared from the warrant otherwise referred to in this paragraph, subsection, and such the assessment list shall must be made part of the minutes of the Town Council meeting in which it was presented. On or before the first day of July in each year, the Council shall deliver to the Town Finance Clerk a list containing the names of the taxables of the Town, opposite the name of each the amount of his/her the taxable's property assessment, the tax upon the whole of his/her the taxable's assessment, and the rate per hundred dollars. Such The list or assessment shall must also include the list of any and all charges, eosts costs, or other assessment assessments owed to the Town, including but not limited to curb and gutter assessments, weed and grass cutting bills, trash collection bills, and any charges incurred by the Town in bringing a property into compliance with the Town Code. Attached to said the list shall must be a warrant, under

the seal of the Town of Wyoming, signed by the Mayor and attested by the Secretary, commanding the Town Finance Clerk to make collection of the taxes and other charges, ~~eosts~~ costs, or assessments as stated and set forth in the list.

17.2 All taxes laid or imposed under the provisions of this Charter, this charter by the Council of the Town of Wyoming, as well as charges, ~~eosts and/or costs, including costs of collection, or~~ other assessments added to the assessment list as set forth immediately above, shall be, constitute, and continue under subsection 17.1 of this section are, constitute, and continue as a lien upon all the real estate of the taxable against or upon whom ~~such taxes/charges~~ the taxes, charges, costs, or other assessments are laid or imposed of which ~~such~~ the taxable was seized at any time after ~~such taxes/charges~~ shall the taxes, charges, costs, or other assessments have been levied and imposed, situated in the Town of Wyoming, for a period of ~~ten~~ 10 years from the first day of July of the year in which ~~such tax/charge shall~~ the taxes, charges, costs, or other assessments have been imposed; provided that if imposed. If the real estate remains the property of ~~the person(s) who was/ were the owner(s)~~ the person who was the owner at the time it was so assessed, the lien ~~shall continue~~ continues until the ~~same is~~ taxes, charges, costs, or other assessments are collected in full. The lien of ~~such taxes/charges shall~~ the taxes, charges, costs, or other assessments have priority over all other liens except as provided under ~~25 Del.C. § 2906(b)~~ § 2906(b) of Title 25 of the Delaware Code, as amended, or any future corresponding provision of law.

17.3 All taxes when and as collected by the Town Finance Clerk shall are to be paid to the Town Treasurer and all taxes shall be are due and payable at and from the time of the delivery of the tax list to the Town Finance Clerk. A The Town Finance Clerk shall allow a 3% discount shall be allowed by the Town Finance Clerk of three per cent on every tax paid before the first day of August in each year; no year. The Town Finance Clerk may not allow a discount shall be allowed by the Town Finance Clerk on taxes paid on or after the first day of August, and to August. To every tax paid after the thirtieth day of September in each year, there shall be is to be added and collected one per centum 1% for every month or fraction of a month after the said thirtieth day of September that the tax remains unpaid, which penalty shall also apply unpaid. The 1% penalty applies to any additional costs, ~~charges and/or charges,~~ charges, or assessments added to the tax bill pursuant to under this section. The Town Council may make just allowances for delinquencies in the collection of taxes. Before exercising any of the powers ~~herein given~~ granted by this section for collection of taxes, notices ~~shall~~ must be given to the taxable of the amount due.

17.4 Except as provided otherwise herein, the provisions of 9 Del.C. Chapter 87 ('Collection of Delinquent Taxes'), as it may from time to time hereafter be amended, shall be by this section, Chapter 87 of Title 9 of the Delaware Code (regarding collection of delinquent taxes), as amended, is deemed and held to apply to all taxes laid and/or or imposed, and all charges, ~~eosts or costs,~~ costs, or other assessments added to the assessment list delivered to the Town Finance Clerk for collection pursuant to under this section. The Town Finance Clerk ~~shall have~~ has all of the same powers,

remedies, and authority, including the monition method of the collection of taxes, as conferred by Title 9 of the Delaware Code, ~~as the same may from time to time hereafter be amended, or in accordance with~~ Code, as amended, or any future corresponding provision of law, upon those individuals ~~and/or or~~ departments authorized to collect delinquent taxes in Kent County. ~~In the event that the Town Solicitor is employed to bring any legal action in any Court of law or equity on behalf of the Town for the collection of any taxes, or any other costs, charges and/or assessments due to the Town, and if the Town in said action shall recover judgment in any sum, then the Town shall also recover in said action, the costs of the suit, reasonable attorney's fees incurred, and other reasonable and necessary out-of-pocket expenses incurred by the Town in such collection proceeding. Said costs and reasonable attorney's fees incurred shall be entered, allowed and paid as part of the decree of judgment in said action, and shall constitute a lien upon all of the real estate of the taxable as allowed by Delaware law, becoming a part of, relating back to, and having the same preference and priority as the lien of said taxes due. In effecting a collection of any delinquent tax or any other charges, costs, or assessments due to the Town and added to the tax assessment list, the Town Council may recover the costs of collection, including all court costs, sale costs, reasonable and necessary out-of-pocket expenses, and reasonable attorney's fees incurred by the Town in the collection proceedings. The collection costs constitute a lien on all of the real estate of the taxable, becoming a part of, relating back to, and having the same preference and priority as the lien of the underlying amounts owed.~~

17.5 Whenever it becomes necessary or expedient for the Town to file any legal action or proceeding to enforce compliance with a Town ordinance ~~and/or or~~ to collect an amount due to the Town before any court or administrative agency having jurisdiction thereof, if the Town is the prevailing party in ~~such the~~ the action, the court or administrative agency having jurisdiction ~~shall be authorized, may,~~ in the exercise of its reasonable discretion, ~~to~~ award judgment to the Town in an amount deemed appropriate by it to reimburse the Town for its costs of prosecution, including court costs, expert witness fees, reasonable attorney's fees, and other documented out-of-pocket expenses incurred in connection with such ~~prosecution; provided, however, that in order to~~ prosecution. To recover such the amounts under this ~~section, subsection,~~ the Town ~~shall, prior to must, before~~ the filing of ~~such a~~ legal action or proceeding, make written demand ~~upon on~~ the responsible party for compliance with the ~~ordinance and/or ordinance or~~ ordinance or payment of the amount ~~due (as the case may be), which due, as applicable, and the~~ written demand shall must include notice of this ~~provision of the Town Charter.~~ subsection.

Section 9. Amend Section 18 of the Charter of the Town of Wyoming by making deletions as shown by strike through and insertions as shown by underline as follows:

18. Enumeration of Specific Powers of Council.

The Town Council ~~shall have power to do~~ may do all of the following:

230 18.26 Enforce the removal of ice, snow, or dirt or other foreign substance from sidewalks and gutters by
231 owners or abutting owners.

232 18.27 Where the title to real property is held by an association of property owners, e.g. a homeowner
233 association, condo association, or maintenance association, the Town may assess each member of the association
234 individually, on a pro-rata basis, for any expenses incurred by the Town to bring the real property held by the
235 association into compliance with Town and State laws and ordinances, where the association has failed to make
236 payment in full within 60 days after written demand from the Town. When the Town has a good faith belief that the
237 association is defunct or no longer has a functioning board or other similar representative body, the Town shall provide
238 notices directly to, and make demand of, individual association members. Notwithstanding the provisions of § 81-317
239 of Title 25 of the Delaware Code, as amended, an assessment made under this paragraph 18.27 may be collected in the
240 same manner as other amounts owed to the Town.

SYNOPSIS

This Act amends the Charter of the Town of Wyoming (“Charter”) to clarify the authority of the Town in certain areas and to improve the operations of the Town. Specifically, in this Act:

(1) Section 1 changes when newly elected Town Council members take office. Instead of waiting from the date of the election in February until May to take office, new council members would take office at an organizational meeting to be held as soon as possible following the sixth day from the certification of the election.

(2) Section 2 simplifies the process for filling a vacancy on Town Council.

(3) Section 3 is correlated with Section 1 and clarifies when new council members take office. Additionally, this Section establishes at will employment for all employees who do not have an employment contract.

(4) Section 4 clarifies that the Mayor is authorized to vote as a member of Council in all situations and not just to break a tie and establish a majority vote.

(5) Section 5 authorizes the Town to hire a Police Chief pursuant to an employment contract and allows the Town to not renew an employment contract without a finding of just cause or holding a hearing under Chapter 93 of Title 11 of the Delaware Code.

(6) Section 6 establishes procedures for the Town to hire a Town Manager.

(7) Section 7 authorizes the Town to issue quarterly supplemental tax assessment invoices for those properties that have had quarterly supplemental tax assessments completed by Kent County. Invoices paid within 30 days of the mailing of the supplemental tax invoice are to be given a 3% discount, and any invoices paid more than 90 days after the mailing of the supplemental tax invoice are subject to penalties and collection procedures outlined in the Charter.

(8) Section 8 allows the Town to make allowances for delinquent taxes. This Section amends the Town’s ability to recover costs associated with collection proceedings to more closely reflect the monition method of collecting outstanding taxes. This Section clarifies that costs or assessments are subject to the lien process.

(9) Section 9 authorizes the Town to enforce the removal of snow, ice, and dirt from sidewalks and gutters and authorizes the Town to assess individual members of a homeowners’ association for expenses incurred by the Town to bring property owned by the association into compliance with Town and State laws when the homeowners’ association fails to pay the amounts or has ceased to operate.

This Act requires a greater than majority vote for passage because § 1 of Article IX of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to amend a municipal charter.

Finally, this Act makes technical corrections to conform the Charter to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Paradee