SPONSOR: Sen. Poore & Rep. Mulrooney

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 178
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND THE CHARTER OF THE CITY OF NEW CASTLE.

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 City of New Castle by making deletions as shown by strike through and insertions as shown by underline as follows:

Section 4. Officers, Qualifications and Salaries

The officers of the municipal corporation ~~shall~~ consist of a Mayor, a Council to be composed of four ~~Members~~ Members, and a President of Council who shall be ex-officio a member and presiding officer of the ~~Council, a Treasurer, and City Clerk.~~ Council. No person ~~shall be~~ is eligible to any of the above offices who is not a citizen of the State and a resident of the City. The Mayor and the President and Members of Council must have resided in the City for at least ~~two (2)~~ 2 years before their election and at the time of their election be qualified voters of the City.

The City Council shall appoint an officer of the City who has the title of City Clerk. The City Clerk's duties are as determined from time to time by City Council. The City Clerk may be removed from office upon the affirmative vote of 4 members of City Council.

The City Council shall appoint an officer of the City who has the title of City Treasurer. The City Treasurer's duties are as determined from time to time by City Council. The City Treasurer may be removed from office upon the affirmative vote of 4 members of City Council.

The Council may, from time to time, by resolution appoint a City Solicitor who ~~shall~~ must be a licensed member in good standing of the Bar of the Supreme Court of the State of Delaware with a minimum of ~~five (5)~~ 5 years experience before the Delaware Bar. The Council may also, from time to time, by resolution appoint a City Engineer who ~~shall~~ must be duly licensed by The State of Delaware as a professional engineer in good standing with a minimum of ~~five (5)~~ 5 years experience as a licensed professional engineer in the State of Delaware. The ~~Council by ordinance may provide for~~ Council, by ordinance or resolution, may establish such other offices and their respective duties, and may appoint and remove such other officers as Council may ~~be deemed~~ deem necessary.

~~It shall be the duty of each~~ Each Council member ~~to~~ shall propose necessary and appropriate legislation and resolutions for Council's consideration; ~~to~~ serve on committees designated by Council; ~~to~~ attend public hearings on

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proposed legislation; ~~to~~ be available and responsive to constituents, and ~~to~~ perform all other duties as provided in the Charter and by Delaware law.

The Council shall determine the annual salary of the Mayor, the President of ~~Council~~ Council, and Council members by ordinance, but no ordinance increasing such salary ~~shall~~ may become effective until the date of commencement of the terms of the Mayor, the President of ~~Council~~ Council, and the Council members elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. The Mayor, the President of ~~Council~~ Council, and members of Council ~~shall~~ must receive reimbursement for actual time and necessary expenses as supported by receipts incurred when on official business. The salaries, fees, or compensation of appointed officers ~~shall~~ must be fixed by resolution of Council.

Section 5. Time of Elections

Election of the Mayor, the President of ~~Council~~ Council, and other Council members ~~shall~~ must occur at biannual elections on the second Saturday of April (except when such date falls on Easter week-end, then on the third Saturday of April). Commencing with the election to be held in calendar year 2013 the terms of Mayor, the President of ~~Council~~ Council, and other Council members ~~shall~~ must be staggered. At the election to be held in calendar year 2013, the Mayor and ~~two~~ 2 Council members ~~shall~~ must be elected for a ~~two (2)~~ 2 year term while the President of Council and the remaining ~~two (2)~~ 2 Council members ~~shall~~ must be elected to a ~~four (4)~~ 4 year term. The ~~two~~ 2 successful Council member candidates receiving the largest number of votes ~~shall~~ must be elected to ~~four (4)~~ 4 year term seats on Council. The ~~two~~ 2 successful Council member candidates receiving the least number of votes ~~shall~~ must be elected to ~~two (2)~~ 2 year seats on Council. Thereafter, in all odd numbered ~~years two~~ years, 2 Council members and either the Mayor or the President of Council (depending on whose term has expired) ~~shall~~ must be elected for ~~four (4)~~ 4 year terms. Each officer shall hold office until the biannual election when his or her term expires and until his or her successor has been elected and qualified.

~~Commencing in the year 2013, the Treasurer and the City Clerk shall be elected every four (4) years by ballot on the second Saturday of April (except when such date falls on Easter week-end, then on the third Saturday of April). The Treasurer and City Clerk shall continue in office for a term of four (4) years or until their successors are legally qualified.~~

Section 6. Election Procedures

(a) The responsibility for conducting all municipal elections in the City of New Castle ~~shall be~~ is vested with the Board of Elections for the City of New Castle. Each member of City Council shall appoint ~~one (1)~~ 1 qualified elector, who is also a resident of the City of New Castle, to serve as a member of said Board. The term of all individuals so appointed ~~shall be~~ is ~~four (4)~~ 4 years, commencing the day on which the appointment is made.

(b) Should any member of the Board of Elections die or become unable to perform the required duties, at any time, a successor ~~shall~~ must be appointed to complete the remainder of the term in an open meeting of the City Council, by the Council Member, or their successor, who made the original appointment.

(c) The Board of Elections for the City of New Castle ~~shall have,~~ has, subject to the formal approval by Ordinance, by majority ~~vote,~~ vote of the City Council, the power, ~~authority~~ authority, and responsibility to establish or to amend all rules or regulations designed to do any of the following:

(1) Register Voters;

(2) Conduct Elections;

(3) In the month of July in years preceding an election years, meet and elect from the members of the Board, a President and a Secretary; and

(4) To provide for all such other matters related to the municipal election processes of the City of New Castle including compliance with all applicable State election laws.

(d) Any member of the Board of Elections or any election officer appointed by them who is found guilty, by majority vote of the City Council, of either ~~(1) or (2)~~ of the following shall immediately forfeit their position or employment:

(1) Directly or indirectly seek to use their authority or official influence to control or modify the political action of another person.

(2) Actively participate in the political activities of any individual or campaign.

(e) The pay for all members of the Board of Elections, all election ~~officers~~ officers, and all election related materials, including polling place rental, ~~shall~~ must be fixed by City Council and paid out of City funds.

(f) Any person desiring to become a candidate for the office of Mayor, the President of Council, or a member of ~~Council, the Treasurer or City Clerk,~~ Council shall file with the City his or her name, place of residence, and date, designating the office for which he or she seeks to become a candidate, no later than 5:00 p.m. local time, of the last Friday in the month of February in the year of the election.

(g)(1) An elected official of the City does not qualify as a candidate for a different elective office in the City if the term of the elected official's current position and the term of the other elective office will run concurrently for any period of time, unless the elected official submits to the City a written letter of resignation from the office the elected official currently holds at least 20 calendar days before the last day to file as a candidate for the office the person intends to seek. Such resignation takes effect on the earlier of the following dates:

a. The date the elected official is sworn into the elected official's new office, if elected; or

b. The date the elected official's successor is sworn into the office that the elected official resigned from.

(2) The provisions in this subsection (g)(1) of this section do not apply to an incumbent elected official who files for re-election to the same elective office; provided, however, that under no circumstances may any individual simultaneously hold 2 elective offices in the City.

(h) Any candidate desiring to withdraw his or her candidacy shall do so by notifying the City in writing no later than March 20th in the year of the election or should March 20th fall on a weekend or federal holiday, the next business day thereafter.

~~(g)~~ (i) At any municipal election of the City of New Castle all individuals who ~~shall~~ have attained the age of ~~eighteen (18)~~ 18 at the time of the election who ~~shall~~ have been a resident of the City of New Castle for ~~thirty (30)~~ 30 days preceding said election ~~shall be~~ are entitled to vote; provided, however, that said person is otherwise qualified to register to vote and has registered to vote as required by the Election Laws of the State of Delaware (15 Del. C. Chapter 75), ~~five (5)~~ 5 days prior to said election. The Board of Elections shall decide on the legality of the votes offered.

~~(h)~~ (j) The Board of Elections shall determine the ~~place(s)~~ place or places for holding said election, subject to the approval of City Council and shall give notice of the time and places of holding said election by posting notice thereof in accordance with applicable Delaware State election laws governing municipal elections. The Board of Elections shall appoint sufficient election officers and an election Inspector ~~pursuant to~~ under 15 Del. C. §7556 to assist in overseeing and conducting elections.

~~(i)~~ (k) On the day of the election, all polling places will open at 8:00 a.m., local time and close at 6 p.m., local time, for the purpose of voting.

~~(j)~~ (l) Upon the closing of the polls ~~as aforesaid,~~ under subsection (k) of this section, the Board of Elections shall count all the votes cast, publicly read the ~~results~~ results, and certify said results to the President and members of City Council.

~~(k)~~ (m) For the purpose of certifying the results to the Board of ~~Elections~~ Elections, the election officers shall fill out ~~four (4)~~ 4 certificates of election, all of which are to be verified and signed by all of the election officers present at the closing of the polls. The Inspector and ~~one (1)~~ 1 election official ~~shall~~ must each retain, for ~~thirty (30)~~ 30 days following the day of election, ~~one (1)~~ 1 copy of the certificate of election. The third ~~(3rd)~~ copy ~~shall~~ must be given to the President or the designee of the Board of Elections at the closing of the polling place and the fourth ~~(4th)~~ copy ~~shall~~ must be given to the President of City Council, at the closing of the polling place.

~~(l)~~ (n) On the Monday evening following any such election, the City Council shall meet at 8:00 p.m., local time, for the purpose of canvassing said election. The ~~Chair~~ President of the Board of Elections or ~~his/her~~ the President's designee shall appear before City Council at that time and present the certificate of election retained by them. The City Council shall canvass the vote ~~and~~ and, after ascertaining which candidates have received the greatest number of votes and have been thereby elected to the various offices, shall fill out, ~~sign~~ sign, and deliver certificates of election to all of the successful candidates.

~~(m)~~ (o) In the event of a tie vote for election to any office, ~~the outgoing City Council by a majority vote of the members present shall resolve the tie. In the event of a tie vote of the members of Council present the Mayor shall cast the~~

~~deciding vote.~~ a special election for said office(s) must be held within 45 days following the election that resulted in the tie vote and the voter registration books must remain closed until the outcome of the special election is determined. 80 Del. Laws, c. ~~3;~~ 3.

Section 7. Taking Office

As soon as may be conveniently be done after the result of ~~said election shall have~~ an election under Section 6 has been ascertained by the City Council ~~as aforesaid,~~ under Section 6(n), but no sooner than the seventh ~~(7th)~~ day following said election, ~~it shall be the duty of the Mayor-elect,~~ each person elected as Mayor, President of Council, or member of Council shall ~~to~~ take and subscribe, before ~~some Justice of the Peace in the County of New Castle or other~~ any sitting judge or justice of any court of the State of Delaware, or any sitting Mayor, President of Council, Council member, or Delaware licensed attorney, an oath or affirmation that ~~he or she~~ the individual will support the Constitution of the United States and the Constitution of the State of Delaware and that ~~he or she~~ the individual will perform the duties of ~~his or her~~ the office with ~~fidelity,~~ fidelity.

Upon taking such oath or affirmation, and the giving of such bond as is required by this Charter or applicable law, the person elected shall enter upon the duties of ~~his or her~~ that office. ~~The Mayor shall administer a like oath or affirmation to each of the persons who shall have been elected as aforesaid, as President of Council, member of Council, Treasurer and City Clerk, upon the taking of which oath or affirmation and the giving of such bond as is required by this Act, they shall enter upon the duties of their offices, respectively.~~

The City may cause a bond to the municipal corporation to be purchased which ~~shall~~ must cover the Treasurer in such amount as ~~shall be determine by the Council,~~ the Council may determine, and with surety, to be approved by the Council, conditioned for the faithful performance of the duties of ~~his or her~~ the individual's office. The Treasurer shall, from time to time, prepare and present to Council such reports as may be required by Council. The Council may, by ordinance, or otherwise, require such other officers of the City to give bond in such manner and with such conditions as it may deem proper.

Section 8. Continuity of Office

The Mayor, President of Council, and members of ~~Council, Treasurer and City Clerk shall~~ Council hold their respective offices until their successors have been duly elected and qualified as ~~hereinabove provided,~~ provided by this Charter, and the failure to hold an election on the day fixed or the omission to execute any authority conferred by this Act ~~shall~~ does not dissolve the municipal corporation, but the authority of each officer ~~shall continue~~ continues until a new election can be legally held.

Section 9. Vacancies

In case of the death, resignation, refusal to act, forfeiture of office, disability, removal, or inability to be bonded under the provisions of this charter, of any person elected ~~as aforesaid~~ to the office of Mayor, President of Council, or

member of Council, ~~City Treasurer, or City Clerk, the vacancy thus occasioned shall be filled by the Council, who shall elect some suitable person, not of their own body, having the qualifications herein provided for, to fill said vacancy until the next election, or until a successor shall have been duly qualified.~~ such office is deemed vacant. If such vacancy occurs less than 6 months before the next regularly scheduled City election, the office remains vacant until the next election and a successor is duly elected. If such vacancy occurs in excess of 6 months before the next regularly scheduled City election, a special election must be held to fill such vacancy, with the special election to be held no sooner than 60 days from the date of the vacancy, and no later than 90 days from the date of the vacancy as determined by City Council. Any individual desiring to become a candidate for the office of a vacated elective office must file with the City the individual's name, place of residence, and the date of this filing, designating the office for which the individual seeks to become a candidate, no later than 5:00 p.m. local time, on the fortieth day before the date of the scheduled election. Any individual desiring to withdraw the individual's candidacy shall do so by notifying the City in writing no later than the twentieth calendar day before the date of the scheduled special election. For purposes of this section, if the deadline to file or withdraw one's candidacy falls on a weekend or federal holiday, the deadline is extended to the next business day thereafter.

~~In the event the~~ The Mayor, President of Council, or any Council ~~member, the City Treasurer or the City Clerk shall be~~ member immediately forfeits office if the individual ceases to be qualified under this Charter to hold office or is convicted of a non-appealable ~~felony, such conviction shall automatically result in his or her immediate removal office from office.~~ felony. ~~In the event the~~ If the Mayor, the President of ~~Council~~ Council, or any Council member ~~shall fail~~ fails to attend ~~and be counted toward a quorum at~~ 3 or more consecutive regular monthly meetings of Council, or more ~~that~~ than one-third of Council's regular monthly meetings in any consecutive ~~twelve (12)~~ 12 month period, ~~then~~ the remaining Council members may, in their discretion, following notice and an opportunity to be heard, adopt a resolution removing ~~him or her~~ the individual from office and declaring ~~his or her seat vacant,~~ that office vacant. ~~said vacant seat to be filled as provided in this Section.~~

Section 12. Duties of Mayor

The Mayor of the City ~~shall be~~ is the executive officer thereof, and is hereby constituted a conservator of the peace within the said City, and is authorized, ~~empowered~~ empowered, and required to exercise within said City, all the authority which justices of the peace in and for the County of New Castle may exercise under the laws of this State, and ~~he or she shall further be~~ the Mayor is further invested with authority in all lawful cases of commitment to commit persons guilty of a breach of the peace to the appropriate correctional facility. ~~And it shall be the duty of the~~ The Mayor must faithfully execute ~~to take care to have~~ the laws and ordinances of said City ~~faithfully executed,~~ and for that purpose ~~shall have~~ has the power and authority to arrest and hold to bail all persons accused of a breach of said ordinances, and fine and imprison all persons found guilty of a breach of said ordinances. Such power and authority ~~shall~~ must be exercised upon complaint duly made under oath and hearing of the party accused, and for that purpose, the Mayor ~~shall have~~ has the power to issue the

ordinary process for the arrest of parties and for the attendance of witnesses, and the power to punish for contempt now possessed by justices of the peace. Provided, that ~~he shall~~ the Mayor does not have jurisdiction in any civil matter other than to carry out the provisions of this charter, or the regulations and ordinances adopted for the government of said City by the powers herein authorized to adopt the same, and that all fines imposed and collected, ~~shall~~ must be paid to the ~~Treasurer of the~~ City of New Castle.

Section 13. Meetings and Procedures of Council

All the legislative powers of the corporation ~~shall be~~ are vested in the Council. Council may adopt rules for the government of their own body and the transaction of business. The President of Council ~~shall be~~ is the presiding officer and a member of the Council and ~~shall have~~ has the authority to designate another member of Council to preside at any meeting of Council in ~~his~~ the President's absence. The Council shall meet for the transaction of business no less frequently than monthly at such times as the said Council may determine, and a majority of the whole number of members ~~shall constitute~~ constitutes a quorum to do business. ~~The President of Council and other Council members may participate in Council meetings via conference telephone or similar communications equipment by means of which all persons attending the meeting can hear each other and such participation shall constitute presence in person at such meeting.~~ All meetings of the Council ~~shall be~~ are public, except meetings for the transaction of executive business in accordance with the Delaware Freedom of Information Act, 29 Del.C. §§10001 et seq. ~~as same may be amended from time to time.~~ , as amended. No ordinance ~~shall~~ can pass the Council unless the ~~same shall have~~ ordinance has the concurrence of a majority of all the members of the Council and ~~shall have~~ has had at least one reading at a previous meeting thereof. No ordinance ~~shall~~ may be repealed other than by an ordinance duly passed. On the final passage of an ordinance the vote ~~shall~~ must be taken by yeas and nays and the names of the persons voting for and against the same ~~shall~~ must be entered on the minutes. The yeas and nays on any questions ~~shall~~ may, at the desire of any Council ~~member~~ member, be entered on the minutes. No ordinance authorizing the borrowing of money and the issuing of bonds ~~therefor shall~~ therefor can pass the Council without the concurrence of at least two-thirds of all the members. Every ordinance after it ~~shall have~~ has passed the Council, ~~shall~~ must be signed by the President of Council and the Clerk of Council in authentication of its passage, and on the next day thereafter presented to the Mayor. If the Mayor approves it, ~~he or she~~ the Mayor shall sign it; but if not, the Mayor shall return it with written objections to the Council who shall enter the objections on the minutes and proceed to reconsider it. If two-thirds of all the members of the Council ~~shall then~~ agree to pass the same, it ~~shall become~~ becomes an ordinance of the City; otherwise it ~~shall be~~ is inoperative. Every ordinance that ~~shall~~ is not ~~be~~ returned to the Council by the Mayor within ~~five~~ 5 days after receipt, ~~shall become~~ becomes an ordinance of the City in like manner as if the Mayor had signed it. All ordinances of the City ~~shall~~ must be preserved ~~by the City Clerk and recorded at length in an ordinance book~~ in the permanent records of the City.

Section 19. Property Assessment Procedure

Section 19.1 Adoption of New Castle County Assessment

The City shall adopt the assessment set from time to time by New Castle County for all property located within the corporate limits of the City in lieu of making its own independent valuation and assessment of such property. The assessment of values established by New Castle County ~~shall be~~ is conclusive for ~~purposes~~ the purpose of levying City taxes and the City ~~shall have~~ has no authority to hear appeals regarding same.

Section 19.2 Payment of Taxes

All taxes ~~shall~~ must be paid to the City ~~Clerk or City Treasurer, or their designated representatives,~~ of New Castle at the City Hall during regular business hours. All taxes ~~shall be~~ are due and payable on the first day of July in the year in which they are assessed and laid and ~~shall~~ must be paid no later than September ~~30th~~ 30 (or on the next banking day, if September ~~30th~~ 30 is a weekend or holiday) of each year. The Council may provide for early payment discounts in its discretion. ~~On all taxes paid after September 30th there shall be paid an~~ An accrued penalty of one and ~~one-half~~ a half percent (1.5%) per month or fraction thereof for each month unpaid after due date must be paid on all taxes paid after September ~~30th.~~ 30. All tax bills ~~shall~~ must be sent out on or before August 1 of each year. Appropriate legal action shall be taken against all delinquent taxables whose taxes have become delinquent as determined by Council.

Section 19.4 Collection of Delinquent Taxes – Generally

(a) The provisions of ~~Title 25, Delaware Code Annotated, Chapter 29,~~ Chapter 29, Title 25 of the Delaware Code, as amended, with reference to tax liens ~~shall be~~ are deemed and held to apply to all taxes laid and imposed under the provisions of this Charter. In addition, liens on real property ~~shall~~ arise in favor of the City whenever the following charges are imposed by the City or the City's Municipal Services Commission relating to any parcel of real estate:

(1) Service charges for maintenance or use of water and electrical systems, including penalty and interest thereon;

(2) Charges for the costs of ~~razing~~ securing, razing, or demolition of buildings done through public expenditure;

(3) Charges for duly authorized improvements or maintenance to the exteriors of buildings or property done through public expenditure;

(4) Assessments for the installation of electrical lines, water mains, sidewalks and curbing, including penalty and interest thereon;

(5) Fees imposed by law or ordinance of the City for registration of ownership of any vacant buildings located within the political subdivision, the imposition of which fees is final and non-appealable; ~~and~~

(6) Charges for the costs of removing weeds, grasses, refuse, rubbish, trash or other waste material done through public ~~expenditure.~~ expenditure; and

(7) As authorized by ordinance.

Section 20. Borrowing for Current Operating Expenses

(a) Whenever the needs of the City ~~shall~~ require more money than is, at the time, in the City treasury from current receipts, the Council ~~shall be~~ is authorized and empowered to anticipate current revenue by borrowing such amounts as are needed. The aggregate amount of outstanding principal from any such borrowing or borrowings under this ~~subparagraph shall~~ paragraph may not exceed $500,000.00. Any borrowings under this paragraph ~~shall,~~ must, by their terms, be repayable in full within ~~(13)~~ 13 months of the date of each such borrowing or the maximum time period permitted under Federal tax law, whichever greater.

(b) To exercise the power ~~aforesaid~~ under paragraph (a) of this section, the Council ~~shall~~ must adopt a resolution to that effect, which resolution ~~shall~~ must be by roll call and require the affirmative vote of at least a two-thirds majority of all members ~~ofthe~~ of the Council. The indebtedness created under this provision ~~shall~~ must be secured by a promissory note or notes or other evidence of indebtedness of the City, and the full faith and credit of the City may be deemed to be pledged thereby, and no officer nor Council member ~~shall be~~ is personally liable for the payment of such notes because it is signed by them as officers of the City, and is authorized by a resolution of the Council. Such short-term debt ~~shall~~ must not be considered as part of the bonded debt of the City when limitations under indebtedness, as set forth elsewhere in this Charter, are computed.

Section 21. Borrowing for Capital Expenses

(a) The Council of the City of New Castle ~~shall have the power to~~ may borrow upon the full faith and credit of said City, a sum or sums not to exceed one and two-tenths percent (1.2%) of total assessed value of the real estate in said City in principal amount outstanding at any one time, for capital expenditures, pursuant to a resolution following public hearing, passed by a two-thirds majority of all members of Council, and give its obligation therefore, subject to a twenty percent (20%) borrowing limitation set forth in Section 21(b). All obligations or bonds authorized by this Section ~~shall~~ must be signed by the President of Council and countersigned by the Treasurer, and sealed with the corporate seal. The Council of the City of New Castle shall determine the form of the bonds or certificates of indebtedness authorized under this section, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination, the name ~~thereof~~ thereof, and any other relative or appurtenant matter pertaining thereto. ~~thereto shall all be determined by the Council of City of New Castle.~~ All bonds or other kinds or forms of certificates of indebtedness issued by the City pursuant to the provisions in this Section, and the interest thereon, ~~shall be~~ are exempt from taxation from the State of Delaware or any political subdivision thereof. The aggregate principal amount of debt outstanding from any such borrowing or borrowings under Section 21(a) ~~shall~~ may at no time exceed one and two-tenths (1.2) percent of total assessed value of the real estate in said City. ~~Anything to the contrary herein notwithstanding, the Council of the City of New Castle shall have no authority under this Section 21 (a) to borrow for purposes of funding the construction of a pier or wharf on the banks of the Delaware River at the terminus of Delaware Street in the City.~~