SPONSOR: Rep. D. Short & Sen. Richardson

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 418
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND THE CHARTER OF THE CITY OF SEAFORD.

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 Section 27(D) of the Charter of the City of Seaford by making insertions as shown by underlining and deletions as shown by a strike through as follows:

Section 27(D) All taxes assessed upon any real estate and unpaid after the first day of September shall constitute a first lien against all real estate and personal property of the delinquent taxpayer situated within the limits of the City of Seaford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. All capitation or taxes assessed and laid against any resident of the City shall also become a first lien against all real estate and all personal property of the delinquent taxpayer situated within the City and shall remain a lien for ten (10) years from the date of assessment. Whenever the personal property of the taxable is sufficient to pay the delinquent taxes, the City Manager, in the name of the City of Seaford, may institute ~~suit~~ legal action before ~~any Justice of Peace within the said City, or before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware,~~ any court of competent jurisdiction, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered. ~~before a Justice of Peace or in the Court of Common Pleas or in the Superior Court as the case may be~~.

Section 2. Amend Section 27(J) of the Charter of the City of Seaford by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 27(J) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty, and costs, and no deed shall be made until the expiration of ~~one (1) year from the date of the sale~~ the period identified in 9 Del. C. §8729, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands ~~on~~ by payment to the purchaser, his personal representatives or assigns, of the ~~costs, the amount of the~~ purchase price ~~money~~ and twenty percent (20%) interest ~~thereon and the expense of having the deed prepared~~ along with all other costs incurred from the sale.

Section 3. Amend Section 2 of the Charter of the City of Seaford by deleting the section in its entirety and making insertions as shown by underlining as follows:

HR : PT : AFJ : 0801490461 Released: 06/26/2018 06:17 PM
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The City may from time to time extend its boundaries through the process of annexation in accordance with the Delaware Code and the following procedures shall apply:

(A) Any owner of property located contiguous to the then existing corporate limits and territory of the City of Seaford, may, by written Petition, with the signature of each such Petitioner duly witnessed, request the City Council consider the annexation of the territory into the City.

(1) The petition shall be presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within 1 year of the petition), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.

(2) If the City Manager deems the petition complete, the Mayor of the City of Seaford shall appoint a committee composed of not less than three (3) of the elected members of City Council ("Annexation Committee") to investigate the possibility of the annexation. Not later than 90 days following referral of the petition to the Annexation Committee, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of the City of Seaford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Seaford and to the territory proposed to be annexed, and shall contain the recommendation of the Annexation Committee whether or not to proceed with the proposed annexation and the reasons therefor, as well as a recommendation of the proper zoning district for the property to be annexed.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code. This Plan of Services must be completed for review and acceptance by all necessary agencies prior to final legislative action on the annexation.

(4) Within 60 days of the final recommendation by the Annexation Committee, City Council shall hold a public hearing to consider the annexation petition.

(5) Following the public hearing on the annexation petition and subject to the acceptance of the Plan of Services, City Council may then adopt an ordinance annexing such territory into the City of Seaford. Such ordinance shall be passed by the affirmative vote of 2/3 of all the elected members of the City Council. If the ordinance fails to receive the affirmative vote of 2/3 of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of 1 year from the date that the ordinance failed to receive the required affirmative vote.

(6) The public notice of the annexation ordinance shall contain a description of the territory proposed to be annexed, requested zoning and shall fix a time and place for the public hearing on the subject of the proposed annexation and zoning. The public notice of the annexation ordinance shall be published in a newspaper having a general circulation in the City of Seaford at least 1 week prior to the date set for the public hearing, and, at the discretion of the City Council, the

notice may be posted in 2 public places both in the City of Seaford and in the area near the property or territory proposed to be annexed and on the City website.

(7) If the ordinance is adopted by a 2/3 affirmative vote, the City Council shall cause a description and a plot of the territory annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the adoption of the ordinance. The territory considered for annexation shall be considered to be a part of the City of Seaford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the 90 day period from the date of the favorable vote of the City Council.

(B) If 5 or more property owners, but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Seaford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex the territory in which they own property then the same procedures outlined in Section 2 (a)(1)-(a)(7) herein shall be followed.

(1) If an ordinance is adopted approving a petition for the annexation of 5 or more property under the procedures of Section 2 (a)(1)-(a)(7) herein it shall be subject to the approval of the property owners of the City of Seaford and the property owners in the territory to be annexed. This approval or disapproval shall be signified at a Special Election as set forth below.

(a) City Council shall order a Special Election to occur within 60 days after the adoption of the ordinance affirming the annexation.

(b) The notice of the time and place of the said Special Election shall be published within 30 days immediately preceding the date of this Special Election in at least 2 issues of a newspaper having a general circulation in the City of Seaford, and, at the discretion of the City Council, notice may also be posted in at least 2 public places within the City of Seaford, in the territory proposed to be annexed, and on the City website at least 15 days prior to the date set forth for the said Special Election.

(c) At the Special Election, every property owner, whether individual, partnership or corporation both in the City of Seaford and in the territory proposed to be annexed shall have one vote. Property held by a partnership or by a corporation shall vote only by a power of attorney, corporate resolution, or authorization affidavit duly executed. In the event that an individual holds a Power of Attorney or corporate resolution duly executed and acknowledged, specifically authorizing the said individual to vote on behalf of a partnership or by a corporation at the said Special Election, before that person votes, a duly witnessed Power of Attorney or corporate resolution, shall be filed in the Office of the City Manager of the City of Seaford. The Power of Attorney or corporate resolution so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. Property owners, individuals, or entities in the area proposed to be annexed shall have only 1 vote regardless of the number of parcels owned.

(d) Every citizen of the City of Seaford or of the territory proposed to be annexed over the age of eighteen years who is a property owner shall have one vote. In the case of property owned by husband and wife jointly, the husband and wife shall each have one vote. In the event that a person owns property both in the City of Seaford and in the territory proposed to be annexed, the person shall only have one vote. The books and records of the City of Seaford in the case of property owners and citizens of the City and the books and records of the Board of Assessment of Sussex County in the case of property and residents of the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.

(e) The City Council may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

SPECIAL ELECTION TO CONSIDER THE ANNEXATION OF [PROPERTY ADDRESSES, TAX PARCEL NUMBERS AND GENERAL PROPERTY LOCATIONS] INTO THE CITY OF SEAFORD.

[ ] For the proposed annexation.

[ ] Against the proposed annexation.

(f) The City Council shall cause to be prepared, printed and have available a sufficient number of ballots not less than five (5) days prior to the date of the Special Election.

(g) The Mayor of the City of Seaford shall appoint 3 persons to act as a Board of Special Election, at least one of whom must reside and own property within the City of Seaford and at least one whom owns property in the territory proposed to be annexed. One of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in the Municipal Building and the Board of Election from 7 a.m. prevailing time, until 3:00 p.m. prevailing time, on the date set for the special election.

(h) Immediately after the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result. The Board of Special Election shall then certify the votes cast for and against the proposed annexation and the number of void votes and shall file and deliver the certification to the City Council.

(i) In order for the territory to be considered annexed, a majority of the votes cast both from the residents and property owners of the City of Seaford and from the owners of the territory proposed to be annexed must have been cast in favor of the proposed annexation. If a favorable vote for annexation shall have been cast, the City Council of the City of Seaford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, within ninety (90) days following the favorable vote. The territory considered for annexation shall be considered to be a part of the City of Seaford from the time of recordation. The failure of the City of Seaford to record the description and plot within ninety (90) days shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period.

(j) In the event that the vote results in an unfavorable vote for the annexation, all or any part of the territory considered at the Special Election for annexation shall not again be considered for annexation for a period of one year from the date of the referendum.

(2) In the event the ordinance for annexation does not receive an affirmative vote by 2/3 of all the elected members of City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date the ordinance was denied.

(C) Annexation Agreement.

(1) Notwithstanding any provision herein to the contrary, where, pursuant to §2(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §2 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure. City Council may vote to require the Annexation Agreement at any time before adoption of the ordinance annexing the territory into the city.

(2) The ordinances and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement. The ordinances and ballots, if an election is required, annexing the territory shall recite that the annexation is subject to an annexation agreement which shall be made available in the Town Hall at least seven (7) days prior to any vote to approve the petition. An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the ordinance adopted by City Council annexing the land into the City of Seaford. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation ordinance.

(D) Property shall be designated to a territory of the City of Seaford pursuant to Section 1 of this Charter when annexed into the City.