



SPONSOR: Sen. Still & Rep. Buckworth

DELAWARE STATE SENATE

142nd GENERAL ASSEMBLY

SENATE BILL NO. 82

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF WYOMING"
BEING 43 LAWS OF DELAWARE, CHAPTER 189, AS AMENDED.

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 2 ("General Powers"), 43 Laws of Delaware, Chapter 189, as amended, by deleting
2 the last 2 paragraphs and instead inserting them as the last 2 paragraphs of Section 18 ("Enumeration of Specific Powers
3 of Council"), as follows:

4 "As hereinafter provided in Section 22 relating to power to issue Bonds, the Town shall have all other powers
5 and functions requisite to or appropriate, for the government of the Town, its peace and order, its sanitation, beauty, the
6 health, safety, convenience, comfort, and well being of its population and the protection and preservation of property,
7 public and private; and all actions, suits, and proceedings shall be brought in the name of 'The Town of Wyoming'. The
8 enumeration of particular powers by this Charter shall not be held to be exclusive, but in addition to the powers
9 enumerated herein, it is intended that the Town of Wyoming shall have, and may exercise, all powers as may be implied
10 therefrom or necessary to the reasonable exercise of such enumerated powers. All powers of the Town of Wyoming shall
11 be exercised as prescribed by this Charter, or, if not prescribed herein, by ordinance or resolution of the Town Council."

12 **Section 2.** Amend Section 3 ("Structure of Government"), 43 Laws of Delaware, Chapter 189, as amended by
13 deleting the same in its entirety and in place thereof inserting the following:

14 "Section 3. STRUCTURE OF GOVERNMENT; QUALIFICATIONS FOR TOWN COUNCIL;
15 COMPENSATION.

16 3.1 Structure. The government of the Town and the exercise of all powers conferred by this Charter
17 shall be vested in a town council composed of a Mayor and four Council members, all of whom shall be elected
18 at large by the qualified voters of the Town.

19 3.2 Qualifications. Candidates for, and members of the Town Council (including the Mayor) must be at
20 least 21 years of age, a citizen of the State of Delaware, and a bona fide domiciliary of the Town for at least one
21 year prior to the date of the election. For purposes hereof, a 'bona fide domiciliary' shall mean that a person: (a)
22 has his/her true, fixed, and permanent home and principal establishment in the Town to which, whenever he/she
23 is absent, he/she has the intention of returning, and (b) physically resides in the Town on a continuing basis;
24 provided that absence for less than ninety days at a time from one's place of domicile for some temporary
25 purpose shall not terminate that domicile so long as the intention to return to that place remains fixed, certain,
26 and constant during the period of such physical absence. No person having been convicted of a felony of any
27 crime involving moral turpitude shall be qualified for the office of Town Council or Mayor.

28 3.3 Term of Office. Council members shall each serve a term of two years.

29 3.4 Compensation. The Mayor and each member of Council may be compensated for attendance at any
30 regular or special meeting of the Council as provided by resolution of the Town Council. The Mayor and each
31 member of the Council shall be reimbursed for their documented out-of-pocket expenses incurred by them in
32 carrying out the responsibilities of their office if approved by resolution of the Town Council."

33 **Section 3.** Amend Section 5(B) ("Manner of Holding Elections and Making Nominations"), 43 Laws of
34 Delaware, Chapter 189, as amended by deleting the words "and other standards as may be adopted by the Department of
35 Elections for the State of Delaware from time to time."

36 **Section 4.** Amend Sections 5(D) ("Manner of Holding Elections and Making Nominations"), 43 Laws of
37 Delaware, Chapter 189, as amended, by deleting the words "twenty-one (21) years" and in place thereof inserting
38 "eighteen (18) years".

39 **Section 5.** Amend Section 10 ("Vacancies"), 43 Laws of Delaware, Chapter 189, as amended by deleting the
40 same in its entirety and inserting in place thereof the following:

41 "Section 10. VACANCIES.

42 The office of the Mayor or any Council member shall become vacant upon death, resignation, lawful
43 removal from, or forfeiture of office. The remaining members of the Council and Mayor shall, by majority vote,
44 appoint another qualified person to serve for the remainder of that vacant seat's term; provided that if the
45 unexpired term shall be more than one year, the person appointed shall serve only until the next annual town

election at which time there shall be elected a qualified person to fill the then-remaining unexpired term of said office."

Section 6. Amend Section 11 ("Disqualification"), 43 Laws of Delaware, Chapter 189, as amended by deleting the same in its entirety and inserting in place thereof a new Section 11 as follows:

"Section 11. FORFEITURE OF OFFICE

11.1. Forfeiture. A forfeiture of office shall occur when the Mayor or any Council member:

(a) is convicted, or is determined to have been previously convicted, of any felony or crime involving moral turpitude by any court of competent jurisdiction;

(b) fails to attend three consecutive regular meetings of the Council without being excused by a majority of the remaining Council members/Mayor;

(c) lacks at any time during his or her term of office any qualification for the office as prescribed by this Charter or by law; or

(d) knowingly or willfully violates any material prohibition of this Charter.

11.2. Determinations Concerning Forfeiture. Where the conditions set forth in sections 11.1 (a) or (b) occur, forfeiture shall be automatic. Where the conditions set forth in sections 11.1 (c) or (d) are alleged to have occurred, a preliminary determination concerning such forfeiture shall be made by the remaining members of the Council and the Mayor. Discussion concerning such possible forfeiture may be had in executive session, but if a majority of the remaining members of the Council and the Mayor subsequently vote in open session to charge a forfeiture of office, written notice thereof, stating the specific grounds for such preliminary determination, shall be provided to the affected Council member or Mayor who shall have ten days from the date of such written notice to make written demand for a hearing before the Council at which the affected Council member or Mayor may appear with or without the assistance of legal counsel to respond to such preliminary determination. Such hearing shall be open to the public and shall be held within twenty days from the date of the written demand for such hearing. The remaining members of the Council and the Mayor shall, in connection with any hearing held hereunder, have the authority to subpoena witnesses, administer oaths, take testimony and require the production of documentary or other physical evidence. If a majority of the remaining members of the Council and Mayor determine, at the conclusion of such hearing, that a forfeiture has occurred, that determination, and the reasons

therefor, shall be reduced to writing or recorded in the minutes. Such determination shall be final and effective immediately.

11.3. Failure to Request Hearing As A Bar. Failure of any Council member or the Mayor to demand a hearing as provided above shall be an absolute bar to his/her right to challenge the preliminary determination of the remaining members of the Council and Mayor."

Section 7. Amend Section 14(F)("Treasurer"), 43 Laws of Delaware, Chapter 189, as amended, by deleting the words "a citizen and resident of the said Town".

Section 8. Amend Section 15 ("Board of Assessment; Assessment of Taxes"), 43 Laws of Delaware, Chapter 189, as amended, by redesignating paragraphs 6, 7, 8, 9, 10, 11, 12 and 13 as paragraphs 7, 8, 9, 10, 11, 12, 13 and 14 respectively, and inserting a new paragraph 6 as follows:

"6. Additions to Tax Bills. The Town Council shall annually, prior to the posting of the assessment list, by resolution, provide for the Town Clerk a list of any and all charges, costs or other assessments owed to the Town, which charges, costs and assessments shall include, but not be limited to the following: water bond sinking funds assessments, curb and gutter assessments, water assessments, weed and grass cutting bills, trash collection bills, past due water rents and any charges incurred by the Town in bringing a property into compliance with the Town Code, following notice and an order to correct any violations to the property owner, any appeal process, and the failure of the property owner to correct the violation within the time allowed. Said amounts, when adopted and set forth by resolution of the Mayor and Council, shall be shown on all the copies of the assessments posted pursuant to the provisions of paragraph 7 below."

Section 9. Amend the newly redesignated paragraph 11 ("Board of Assessment; Assessment of Taxes"), 43 Laws of Delaware, Chapter 189, as amended, by deleting the same in its entirety and inserting in place thereof the following:

"11. Notwithstanding any zoning designation, no farmlands hereby included within the limits of the Town of Wyoming shall be subject to any Town tax unless, and until, the same shall be laid out as building lots, and unless the same shall front upon some public street of the Town of Wyoming which shall be laid out and improved. All farmlands within the limits of the Town of Wyoming which are or become laid out as building lots and which front upon some public street of the Town of Wyoming laid out and improved, shall be subject to be taxed to the depth of three hundred (300) feet from said street line for Town purposes. The Town Council, by majority vote, shall be the sole judges of what lands are, and what lands are not, 'farmlands' within the meaning of this Charter."

Section 10. Amend Section 16 ("Collection of Taxes"), 43 Laws of Delaware, Chapter 189, as amended by deleting the title and section in its entirety, and in its place inserting the following:

"COLLECTION OF TAXES AND OTHER CHARGES

16. The Town Clerk shall prepare the annual assessment list of real property assessments, which list shall be prepared from the warrant otherwise referred to in this paragraph, and such assessment list shall be made part of the minutes of the Town Council meeting in which it was presented. On or before the first day of May in each year, the Council shall deliver to the Town Clerk a list containing the names of the taxables of the Town, opposite the name of each the amount of his/her real property assessment, his/her pole assessment, the tax upon the whole of his/her assessment, and the rate per hundred dollars. Such list or assessment shall also include the list of any and all charges, costs, or other assessment owed to the Town, including but not limited to water bond sinking funds assessments, curb and gutter assessments, water assessments, weed and grass cutting bills, trash collection bills, past due water rents and any charges incurred by the Town in bringing a property into compliance with the Town Code. Attached to said list shall be a warrant, under the seal of the Town of Wyoming, signed by the Mayor and attested by the Secretary, commanding the Town Clerk to make collection of the taxes and other charges, costs or assessments as stated and set forth in the list.

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

All taxes when and as collected by the Town Clerk shall be paid to the Town Treasurer and all taxes shall be due and payable at and from the time of the delivery of the tax list to the Town Clerk. A discount shall be allowed by the Town Clerk of three per cent on every tax paid before the first day of July in each year; no discount shall be allowed by the Town Clerk on taxes paid on or after the first day of July, and to every tax paid after the thirtieth day of September in each year, there shall be added and collected one per centum 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 to any additional costs, charges and/or

assessments added to the tax bill pursuant to this section. Before exercising any of the powers herein given for collection of taxes, notices shall be given to the taxable of the amount due.

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 deemed and held to apply to all taxes laid and/or imposed, and all charges, costs or other assessments added to the assessment list delivered to the Town Clerk for collection pursuant to this section.

The Town Clerk shall have all the power conferred by law on the tax collecting authority of Kent County, also known as the Receiver of Taxes in Kent County, by the virtue of the laws of Delaware now in force or hereafter enacted. 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."

Section 11. Amend Section 17, 43 Laws of Delaware, Chapter 189, as amended, by deleting the same in its entirety.

Section 12. Amend Section 18, 43 Laws of Delaware, Chapter 189, as amended by deleting the words “One Hundred Dollars” in the last sentence, and in place thereof inserting the words “Five hundred dollars”.

Section 13. Amend Section 21 (“Exemption of Property from Taxation”), 43 Laws of Delaware, Chapter 189, as amended by deleting the same in its entirety and in place thereof inserting a new Section 21 as follows:

"SECTION 21. EXEMPTION OF PROPERTY FROM TAXATION

The Town Council shall have the power and authority to exempt, by ordinance, such real property from the Town’s property tax as, in the opinion of the Town Council, will best promote the public welfare. Without limiting this power by the following enumeration, the Town Council shall have the power to exempt from or reduce the rate of taxation on the real property and improvements:

156 21.1. of any person, firm, association or corporation engaged in any manufacturing business within the
157 limits of the Town meeting such conditions as the Council shall establish (e.g. number of persons
158 employed, minimum wages, benefits, and hours);

159 21.2. newly-annexed into the Town, upon such conditions as the Council shall establish (e.g.
160 exemption to terminate upon issuance of building permit, transfer of title, or expiration of specified time limit,
161 not to exceed seven years);

162 21.3. of any person 65 years of age or older residing on real property owned by such person (or such
163 person's spouse) in the Town in accordance with 22 Del.C. Chapter 10 or any future corresponding provision of law;

164 21.4. of any person determined to be "totally disabled" (in accordance with such standards of general
165 application as adopted by the Town Council) residing on real property owned by such person (or such
166 person's spouse) in the Town."

167 **Section 14.** Amend Section 23 ("Obstructions, Nuisances, and Unsanitary Conditions"), 43 Laws of Delaware,
168 as amended by deleting the second to last sentence of the section, and in its place inserting the following: "Council shall
169 have the power and authority to enforce, by Ordinance, all the requirements of this section by imposing fines and
170 penalties as shall be in the judgment of Council necessary and proper, which shall be additional to the expenses incurred
171 (including, but not limited to its reasonable attorney's fees incurred in enforcement and/or litigation, and court costs) and
172 costs of removal or abatement."

173 **Section 15.** Amend Section 27 ("Contracts"), 43 Laws of Delaware, Chapter 189, as amended by deleting
174 "\$3,000" as it appears in Section A, and in its place inserting the amount "\$6,000.00".

175 **Section 16.** Amend Section 32 ("Ordinances") by 43 Laws of Delaware, Chapter 189, as amended, by deleting
176 the second paragraph in its entirety which reads as follows, "All ordinances or resolutions of general character relating to
177 the government of the Town shall not be in force and effect until the same shall have been posted in at least two (2)
178 public places in the Town."

179 **Section 17.** Amend Section 33 ("Health") 43 Laws of Delaware, Chapter 189, as amended, by adding a new first
180 sentence as follows: The Town Council may, by majority vote, in their discretion, when deemed necessary and advisable
181 for the protection of the health, safety and welfare of the people of the Town of Wyoming, appoint a Board of Health."

SYNOPSIS

This Act amends the municipal charter of the Town of Wyoming to: (1) Move language relating to the powers

of the Town Council to Section 18, "Enumeration of specific powers of Council" for organizational and clarification purposes only; (2) Change the age requirement to vote in Town elections from 21 to 18 and to serve on the Town Council from 18 to 21; (3) To require that the Mayor and members of Council must be permanent residents of the Town for a period of at least one year; (4) To allow the Mayor and members of Council to be compensated for attendance at Council meetings and to be reimbursed for expenditures made by them in conducting the business of the Town if approved by resolution of the Town Council; (5) To delete the requirement that Town elections be scheduled and conducted according to standard adopted by the Department of Elections for the State of Delaware; (6) To establish conditions and procedures under which the Mayor or a member of the Council shall forfeit his/her office; (7) To delete the requirement that the Town Treasurer be a citizen and resident of the Town; (8) Provide that any costs, charges or assessments owed to the Town, be added to the Tax Assessment List; (9) To clarify that, notwithstanding any zoning designation, no farm lands included within the limits of Town's shall be subject to any Town tax, unless, and until improved; (10) To delete the authority to collect taxes by distraint of goods and chattels, by the attachment of wages, by arrest and by a detailed procedure entailing petition to the Superior Court, and instead grant to the Town Clerk all of the power and authority to collect delinquent taxes and charges as that of the tax collecting authority of Kent County, also known as the Receiver of Taxes in Kent County; (11) Provide that in the event the Town Solicitor is employed to bring any legal action to recover unpaid taxes, or any costs, owed to the Town, the Town shall recover costs and reasonable attorney's fees incurred; (12) To delete the reference to the antiquated, revised Code of 1935; (13) To increase the amount of fines from \$100.00 to \$500.00; (14) To provide that the Town Council may exempt or reduce the rate of taxation for real property in the Town when, in the opinion of the Council, such action will best promote the public welfare, including: newly annexed property, property used in the manufacturing providing jobs in the Town, and property owned by senior citizens and those on disability; (15) To require that no contract in excess of \$6,000.00 be approved without public competitive bidding; (16) To delete the requirement, that all ordinances must be posted in at least two (2) public places in Town before they are in force and effect; (17) To delete the requirement that the Town have a Board of Health, and instead making that discretionary.

AUTHOR: Sen. Still