

## Charter Sections for Review, Discussion, and Recommendation

### Section 5. Qualifications of the Mayor and Town Commissioners.

#### (b)

At all times, no less than 2 sitting Commissioners must qualify as Resident Town Commissioners. A Resident Town Commissioner is a bona fide resident and domiciliary of the Town.

#### Issue

If an election has only one resident candidate and one open resident council position, election of that candidate is automatic, without regard to vote totals for non-resident candidates? If two resident positions are open with only two candidates, then both candidates are automatically elected.

**Should the requirement for resident commissioners be relaxed or eliminated?**

### Section 10. Manner of Holding Elections, Voter Registration, and Voter Qualifications.

#### Issue

The Charter excludes as eligible voters property owners that hold their property in an LLC, LLP, or Corporation. A few municipalities in Delaware allow such entities to vote, but the issue is controversial, and legislation was proposed earlier this year that would ban voting by artificial entities like LLCs. Expansion of such voting rights was controversial this year in Seaford and several years ago in Rehoboth, generating negative public opinion and objections from the Delaware Council on Open Government and ACLU.

One approach to enabling voting representation for these entities in Dewey Beach is the following possible amendment:

New paragraph (5) in (b)

Is the managing member of the LLC, LLP, or Corporation (only 2 votes per entity) to which real property located within the Town has been conveyed and that conveyance recorded in the Office of the Recorder of Deeds in and for Sussex County. A person registering to vote under this Subsection (b)(5) shall file the corporate document identifying the managing member at the time of voter registration, and each time the corporate documents are modified in a manner that affects the person's status as a member, including termination of the corporation.

**Should voting be enabled for LLCs, LLPs, and Corporations? If so, should there be a requirement for at least 50% ownership of LLC, LLP, or Corporation? Should LLC, LLP, or Corporation be limited to one vote? Should amendment ensure one person, one vote?**

## **Section 8. Organization.**

We agreed in March to delete from Section 8 budget-specifications and to retain the budget specifications in Section 22. The proposed amendment is as follows:

### **(b)(3)(c).**

~~The Town Council shall, by ordinance, fix the total amounts of the salaries or compensation paid to employees and officers on a department by department basis as part of the annual budget approval process. The salaries or compensation of individual employees or officers must be consistent with the staffing plan approved as part of the annual budget process and are set by the appropriate department head, with the approval of the Town Manager. An employee or officer of the Town must not have, take, or receive from the Town or otherwise, any compensation, in any form, in addition to the salary or compensation fixed by the Town Council under this subsection.~~

## **Section 22 Town Budget.**

(c) The Budget shall contain the following information:

(1) A Staffing for each department and office of the Town and a detailed estimate showing the expense of operating each department and office for the ensuing fiscal year, including, in aggregate, the total compensation to be paid to all employees within each department and office.

(2) Estimates for the cost of maintenance of Town buildings and infrastructure.

(3) An itemized statement of any other miscellaneous expenses estimated to individually exceed \$5,000.

(4) Detailed estimates of the amounts of money to be received from taxes, assessments, and all other anticipated income of the Town from any source whatsoever.

(d) The Town Council shall, so far as possible, adhere to the Town Budget adopted under this section in making of appropriations and revising the schedules for the fees, fines, penalties, and taxes due to the Town. In addition, the Town Manager shall, so far as possible, ensure that the operations of each department, and the Town as a whole, adhere to the Town Budget adopted under this section and that all monies due to the Town are collected in an effective and efficient manner.

**Does Section 22 define an appropriate role for Commissioners in approving and monitoring the Town budget should the Town Manager have greater flexibility to manage the budget to a more aggregate level?**

## **Section 20 Alderman and Assistant Alderman.**

(m)

Civil and Criminal Penalties; Costs. Neither the Alderman nor the Assistant Alderman may impose a penalty in excess of \$1,000, exclusive of costs, or imprison an offender for more than 30 days, or both, except as otherwise specifically provided in this Charter or by state statute; but the Alderman and Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by ordinance or resolution of the Town Council.

### **Issue**

The maximum penalty that may be levied by the Alderman can also limit penalties the Town may levy for violations of ordinances or town policies.

Should this limit be increased, possibly to \$3,000 or other appropriate maximum?

## **Section 26. Borrowing Money and Issuing Bonds.**

(a)

The Town Council may borrow money, in an aggregate amount that does not exceed \$3,000,000 unless approved by a referendum. To secure the payment of money borrowed under this section, the Town Council is authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the Town of Dewey Beach, or such other security or securities as the Town Council elects, for the payment of the principal thereof and the interest due thereon.

### **Issue**

Amendments to the Charter in 2021 increased the borrowing limit from \$1.5 million, set in 1993, to \$3 million. The Charter and Code Committee had recommended a \$3.5 million cap, but Commissioners reduced the cap to \$3 million.

Is borrowing limit sufficient?

**Section 23. Enumeration of Powers.**

(16)

The Town Council has the authority to levy and collect an accommodations tax upon the renting or leasing of residential property located within the municipal boundaries of Dewey Beach, as follows:

a.

No accommodations tax for a residential rental may be collected upon any of the following:

1.

A valid rental agreement or valid lease agreement with a term of at least 1 year.

2.

The rental or lease of any room or rooms in a hotel, motel, or tourist home as defined under § 6101 of Title 30 of the Delaware Code.

b.

The accommodations tax on a residential rental is as set from time to time by the Town Council, but may not exceed ~~3X~~% of the rent or lease amount unless approved by referendum.

(17)

To impose and collect a lodging tax of no more than ~~3Y~~% of the rent, in addition to the amount imposed by the State under Chapter 61 of Title 30 of the Delaware Code, for the occupancy of any room or rooms in a hotel, motel, or tourist home that is located within the boundaries of Dewey Beach, A lodging tax under this Subsection (a)(17) must be imposed as follows:

a.

~~May not be imposed before April 1, 2021. The rate shall be set annually by~~ the Town Council may not be increased by more than 0.5% annually.

~~b.~~

~~The initial rate may not exceed 1.5%.~~

~~c.~~

~~The rate may not be increased by more than 0.5% annually.~~

**Issue**

The current rates for accommodations tax and lodging tax lag those of other municipalities.

Should the provisions related to these two taxes be revised to provide the Town with greater flexibility to set the rates for these taxes?

**Section 33. Prohibition On Gambling.**

Except for lotteries as conducted by the State and nonprofit charitable gaming as permitted by State Law, gambling shall be prohibited within the Town limits.

**Issue**

Does this permit sales of national lottery tickets or is amendment needed?

Should this provision be amended to be more inclusive? Possible amendment – “Except for lotteries as conducted or authorized by the State...”