

CHAPTER 59
FORMERLY

1981

HOUSE BILL NO. 389

AS AMENDED BY HOUSE AMENDMENTS NOS. 1, 2, 3, AND 4

AN ACT TO INCORPORATE THE TOWN OF DEWEY BEACH.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all the members elected to each branch thereof concurring therein):

Section 1. INCORPORATION.

The inhabitants of the Town of Dewey Beach in Sussex County, are hereby constituted a municipal corporation and body politic by and under the name of "Commissioners of Dewey Beach, (hereinafter referred to as the "corporation" or "town") with power to govern themselves by such ordinances, rules, resolutions and regulations for municipal purposes as they, through their duly-elected officers and agents, may deem proper, not in conflict with the provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, or of the United States.

Section 2. TERRITORY AND LIMITS.

The present territorial limits of the Town of Dewey Beach are hereby established and declared to be as follows:

Starting at a point at the low water mark of the Atlantic Ocean shoreline, it being on an easterly extension of the northern boundary of Chesapeake Street; running thence, in a southerly direction with the low water mark of the coastline of the Atlantic Ocean to a point on the beach which is on an easterly extension of the southern boundary of Collins Street; thence, in a westerly direction along the southern boundary of Collins Street to Route No.1; thence, in a southerly direction to a point approximately sixty-five feet south of Anchor Way; thence, in westerly direction to the eastern shore of the Rehoboth Bay; thence, in a northerly direction, and with the meanderings of the Rehoboth Bay shoreline to Bayard Avenue extended, where it intersects with the southwestern corner of Bellvue Street; thence, running in a northerly direction along the western boundary of Bayard Avenue extended, and across Route No. 1 to an intersection point on the northern boundary of Chesapeake Street; thence, in an easterly direction along the northern boundary of Chesapeake Street to the point and place of beginning.

The area designated by this description includes all of "Rehoboth-by-the-Sea" (as shown on a plot plan on file in Georgetown, Delaware), and all that area south of Rehoboth-by-the-Sea which is bounded on the east by the Atlantic Ocean; bounded on the west by Rehoboth Bay; and whichl extends southward to the south side of Collins Street.

Section 3. STRUCTURE OF GOVERNMENT.

The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in the Commissioners of Dewey Beach. The Commissioners of Dewey Beach shall consist of five members, to be chosen as hereinafter provided. One of the said Commissioners shall have the title of "Mayor of the Town of Dewey Beach," with duties hereinafter to be prescribed, and who shall also be President of the Commissioners of Dewey Beach.

Section 4. GENERAL POWERS.

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(a) The inhabitants of the Town of Dewey Beach within the limits and boundaries hereinafter established shall be, and they are hereby, created a body politic and corporate in law and in equity by the corporate name of "Town of Dewey Beach," (hereinafter referred to as the "Town") and under that name shall have perpetual succession, and may have and use a corporate seal which may be altered, changed or renewed at pleasure; may sue and be sued; plead and be impleaded in all Courts of law and equity in the State of Delaware, and elsewhere, by said corporate name; may hold and acquire real property and personal property obtained by purchase, gift, devise or lease within or without its boundaries for any municipal purposes, in fee simple or for lesser estate or interest; and may sell, lease, hold, manage and control such property as its interest may require; and may do all other things which a body politic and corporate may lawfully do to carry out and effectuate the objects and purposes of this Act; subject, however, to other sections of this Act.

Except as hereinafter provided in this Charter relative to the power to issue bonds, the Town shall have all other powers and functions requisite to or appropriate for the governance of the Town; its peace and order; its sanitation; its beauty; the health, safety, convenience, comfort and well-being of its population; the protection and preservation of property, public and private; and all actions, suits or proceedings shall be brought in the name of the "Town of Dewey Beach."

(b) The enumeration of particular powers by this Charter shall not be held to be exclusive, or to restrict in any manner the general powers conferred herein, but in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise thereof, it is intended that the Town of Dewey Beach shall have, and may exercise all powers which, under the Constitution of the State of Delaware, which would be competent for this Charter to specifically enumerate. All powers of the Town of Dewey Beach, whether expressed or implied, shall be exercised as prescribed by this Charter; or, if not prescribed herein, by ordinance or resolution of the Commissioners.

Section 5. QUALIFICATIONS OF MAYOR AND COMMISSIONERS.

(a) Each Commissioner shall be at least 21 years of age, a non-delinquent taxable of the County, and shall be non-delinquent as to all taxes levied or assessments made by the Town.

(b) Not less than two of the Commissioners shall be designated Resident Commissioners. A Resident Commissioner shall have the following qualifications: 1) he shall be a bona fide resident and domiciliary of the Town; and 2) shall own real estate within the Town; or be a leasehold of real estate in the Town, under a lease of a term of five (5) years or more.

(c) Other Commissioners must either have the qualifications of a Resident Commissioner as defined above or be an owner of real estate within the Town or a leaseholder of real estate within the Town under the lease of a term of five (5) years or more or be a full time resident and domiciliary of the Town.

(d) The Commissioner with the title of "Mayor of the Town of Dewey Beach" must be qualified as a Resident Commissioner.

(e) If any one of the Commissioners shall, during his term of office fail to continue to be qualified as above stated, he shall ipso facto vacate his office. The Commissioners shall be the judges of the qualifications of the members.

Section 6. ELECTION IN GENERAL.

Those who are Commissioners on the date this Charter becomes law, and other officers appointed to serve shall continue to serve as the Commissioners of Dewey Beach and officers of the Town from and after the passage hereof until their successors are duly elected or appointed at the annual election held on the third Saturday in September. In the first annual election, three (3) Commissioners shall be elected for terms of two years each, and the other Commissioners shall serve terms of one year each. Thereafter, each Commissioner shall be elected for a two-year term. In the first annual election, the three Commissioners, receiving the

CHAPTER 346
FORMERLY
HOUSE BILL NO. 377

2012

AN ACT TO AMEND THE LAWS OF DELAWARE RELATING TO THE CHARTER OF THE TOWN OF DEWEY BEACH.

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 Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in the first and third paragraphs of Section 2, Subsection (d) thereof by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 2. Territory Limits.

(d) The Commissioners of Dewey Beach shall have the power to annex additional territory adjoining the corporate limits of the Town of Dewey Beach as hereinbefore set forth or as hereafter extended pursuant to the procedure hereinafter set forth and to apply to all such additional territory all laws, ordinances, resolutions and policies in force with the Town so far as they may be locally applicable. The Commissioners of Dewey Beach shall adopt a Resolution proposing to the property owners and the residents of both the Town and of the Territory proposed to be annexed that The Town of Dewey Beach proposed to annex certain territory which adjoins its then limits and territory. The Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution setting forth the information shall be printed in a newspaper published having a general circulation both in The Town of Dewey Beach and in the territory proposed to be annexed at least one week prior to the date set for the public hearing, as well as posted at Town Hall, the Life Saving Station, and on the Town's website. In addition, a reasonable effort will be made to send a personal letter to all qualified voters and property owners of record of the Town and all property owners of record in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the public hearing. ~~or, if no newspaper is published in the Town, publication shall be had in the territory proposed to be annexed, or, at the discretion of The Commissioners of Dewey Beach, the said Resolution shall be posted in four (4) public places both in The Town and in the territory proposed to be annexed.~~

The notice of the time and place of holding the said Special Election shall be printed within thirty (30) days immediately preceding the date of the Special Election ~~in at least two (2) issues of a newspaper published in The Town, or if no newspaper is published in The Town, the notice may be printed within thirty (30) days immediately preceding the date of the Special Election~~ in two (2) issues of a newspaper having a general circulation in The Town and in the territory proposed to be annexed, ~~or, in the discretion of The Commissioners of Dewey Beach the said notice may be posted in five (5) public places both in the Town and in the territory proposed to be annexed, as well as posted at Town Hall, the Life Saving Station, and on the Town's website~~ at least fifteen (15) days prior to the date of the Special Election. In addition, a reasonable effort will be made to send a personal letter to all qualified voters and property owners of record of the Town and all property owners of record in the territory proposed to be annexed at least fifteen (15) days prior to the date set for the Special Election.

Section 2. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in Section 5, Subsections (a), (b) and (c) thereof by making insertions as shown by underlining and deletions as shown by strike through as follow:

Section 5. Qualifications of Mayor and Commissioners.

- (a) Each Commissioner shall be at least 21 years of age, ~~a non-delinquent taxable of the County, and shall be non-delinquent as to all taxes levied or assessments made by the Town.~~
- (b) Not less than two (2) of the Commissioners shall be designated Resident Commissioners. A Resident Commissioner shall have the following qualifications: 1) shall be a bona fide resident and domiciliary of the Town; and 2) shall own real estate within the Town or be resident trustee of the property ~~which is owned in trust be~~ both a settlor/creator and trustee of a valid trust to which real property which is located within the Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for Sussex County, or be a leaseholder of real estate in the Town under a valid lease of a term of five (5) years or more. Any person applying as a

leaseholder candidate pursuant to this subsection will be required to include a copy of a valid lease with his or her candidate filing.

(c) Other Commissioners must either have the qualifications of a Resident Commissioner as defined above or be an owner of real estate within the Town or be both a settlor/creator and trustee of a valid trust to which real property which is located within Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for Sussex County, or a leaseholder of real estate within the Town under ~~the~~ a valid lease of a term of five (5) years or more. Any person applying as leaseholder candidate pursuant to this subsection will be required to include a copy of a valid lease with his or her candidate filing.

Section 3. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in Section 10, Subsection (b) thereof by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 10. Manner of Holding Elections

(b) Each person eighteen years of age or older, who is a bona fide resident and domiciliary of the Town of Dewey Beach, or who is an owner of real property within the Town, or who holds a valid lease for a term of five years or more on property within the Town, shall be qualified to vote in the election of Town officials as herein provided. A leaseholder seeking qualification as a voter under this subsection will be required to file a copy of a valid lease at the time of voter registration. A ~~Non~~-resident persons eighteen years of age or older who ~~are~~ is both a settler/settlor/creator(s) and trustee(s) of a valid trust to which real property which is located within the Town has been conveyed which conveyance is recorded in the Office of the Recorder of Deeds in and for ~~Sussex county~~ County shall be qualified to vote in the election of Town officials, provided that the Trust document which identifies the trustee(s) and the ~~settler/settlor(s)/creator(s)~~ must be presented at the time of registration.

Section 4. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in Section 15, Subsection (c) thereof by making deletions as shown by strike through as follows:

Section 15. Town Manager.

(c) The Town Manager ~~shall hold office for an indefinite term and~~ may be removed for just cause by a majority vote of the Commissioners of the Town of Dewey Beach. At least thirty (30) days before such removal shall become effective, the Commissioner shall, by a majority vote of all of the elected Commissioners thereof, adopt a preliminary resolution stating the reasons for his removal. The Manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Commission, by a majority vote of all of the elected Commissioners thereof, may adopt a final resolution of removal. By the preliminary resolution, the Commission may suspend the Town Manager from duty but shall in any case cause to be paid him forthwith any unpaid balance of his salary for the next three (3) calendar months following the adoption of the preliminary resolution.

Section 5. Amend Chapter 59, Volume 63 of the Laws of Delaware, as amended, relating to the Charter of the Town of Dewey Beach, in Section 16, Subsections (a) and (j) thereof by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 16. Responsibilities of the Town Manager.

(a) The Town Manager shall be responsible to the Commissioners of the Town of Dewey Beach for the proper administration of the affairs of the Town placed in his charge and to that end, he shall have the power to make such appointments and to hire such employees at such compensations as the Commissioners, by resolution, shall determine, subject to such rules and regulations as may be adopted by the Commissioners. All employees ~~shall be hired for an indefinite term and~~ may be removed by the Town Manager at any time for just cause unless otherwise provided by resolution of the Commissioners. He shall exercise his sole discretion in the appointment or hiring of any such employees. The Town Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by him. The Commissioners of the Town of Dewey Beach shall sit as a Board of Appeal for the protection of Town employees at those times when the majority of all the Commissioners are agreed that a review of the action of the Town Manager would be in the best interest of the Town of Dewey Beach. The decision of the Commissioners in such case shall be final and conclusive.