

## **STRUCTURE OF THE GOVERNMENT**

### **Section 3.**

(a) The government of The City and the exercise of all power conferred by this Charter, except as otherwise provided herein, shall be vested in The Commissioners of Rehoboth Beach. The Commissioners of Rehoboth Beach shall consist of seven (7) members, to be chosen as hereinafter provided, all of whom shall be citizens of the United States of America. One of said Commissioners shall have the title of Mayor of The City of Rehoboth Beach, with duties hereinafter to be prescribed, and who shall also be President of The Commissioners of Rehoboth Beach. Each of the seven (7) Commissioners of Rehoboth Beach, at the time of the approval of his qualifications by The Commissioners as hereinafter provided or at the time of his appointment as the case may be, shall have attained the age of twenty-one (21) years of age. Not less than three of the Commissioners shall be designated resident Commissioners. A resident Commissioner shall be a bona-fide resident and domiciliary of the City. The Commissioner with the title of Mayor of the City of Rehoboth Beach shall also be a bona-fide resident and domiciliary of the City and shall have been domiciled in the City of Rehoboth Beach for a period of at least twelve (12) months immediately preceding the date of election. The other three Commissioners must either have the qualifications of a resident Commissioner as defined above (i.e. a bona-fide resident and domiciliary of the City) or be a freeholder of real estate located within The City. If any of the Commissioners or the Mayor fails to retain his qualifications as aforesaid during the term of his office, he shall ipso facto vacate his office. The Commissioners shall be judges of the qualifications of their members.

## **ELECTION IN GENERAL**

### **Section 4.**

Ballots may be cast in person or by absentee ballot in all elections. Absentee voting shall be in compliance with the applicable provisions of Title 15 of the Delaware Code.

## **ELECTIVE OFFICES**

### **Section 5.**

(a) The six offices of Commissioners of Rehoboth Beach and the office of Commissioner of Rehoboth Beach with the title of Mayor of the City of Rehoboth Beach, with duties hereinafter to be prescribed, shall be elective. All other offices shall be appointive and the person or persons filling such appointive offices shall be appointed by the Commissioners of Rehoboth Beach in the manner hereinafter to be prescribed. Six offices of Commissioner of Rehoboth Beach shall be for a three year term. The office of Commissioner of Rehoboth Beach with the title of Mayor of the City of Rehoboth Beach shall be for a three year term and in every event that a person shall be nominated to this office, the ballots shall not only specify that he seeks the Office of Commissioner of Rehoboth Beach, but also that he seeks that office with the title of Mayor of the City of Rehoboth Beach, with duties hereinafter to be prescribed.

(b) The qualifications for the office of Commissioner of Rehoboth Beach as well as the office of Commissioner of Rehoboth Beach having the title of Mayor of the City of Rehoboth Beach shall be as set forth in Section 3 of this Charter.

(c) In the case of a vacancy created in any office of Commissioner of Rehoboth Beach, or in the office of Commissioner of Rehoboth Beach having the title of Mayor of the City of Rehoboth Beach, either by death, resignation, loss of residence in the City of Rehoboth Beach, or other disqualifying event,

or otherwise, The Commissioners of Rehoboth Beach shall fill such vacancy for the residue of the whole term.

(d) Aside from loss of residence, as in those instances specified in Section 3 of this Charter, if any elected officer be found guilty of any felony, he shall forthwith be disqualified to act as such officer and he shall, ipso facto, vacate his elective office, which office shall be filled by the Commissioners of Rehoboth Beach as in the case of other vacancies.

~~(e) Each non-resident Commissioner shall receive an allowance for every mile necessarily driven from his permanent home to Rehoboth Beach in order to attend any meeting of the Commissioners of Rehoboth Beach or the meeting of any committee of which he is a member; provided however, that no such allowance shall be paid for any meeting attended prior to September 1, 1974, said amount per mile to be the same as that permitted to be assessed by the Sheriff of Sussex County for the serving of papers.<sup>1</sup>~~

## NOMINATIONS TO ELECTIVE OFFICES

### Section 6.

(a) The mode of nomination of candidates for elective offices in the City of Rehoboth Beach shall be by petition, signed by not less than ten nor more than twenty-five qualified electors of the City and filed with the Secretary of the Commissioners of Rehoboth Beach, on or before 12:00 noon on the first Saturday in June of each year preceding the Annual Municipal Election.

(b) Whenever a petition nominating a person for the office of Commissioner of Rehoboth Beach, or the office of Commissioner of Rehoboth Beach who shall have the title of Mayor of the City of Rehoboth Beach, shall have been filed as above prescribed, the name of such person shall be printed on the ballot for the regular municipal election as a candidate for the office for which he was nominated; provided, he possesses the qualifications of an incumbent of that office as prescribed by this Charter. The Commissioners of Rehoboth Beach shall be judge of his qualifications as prescribed by this Charter and, at the regular meeting in June between the hours of 8 and 10 P.M., The Commissioners of Rehoboth Beach shall sit in open meeting to judge the qualifications of candidates so nominated.

(c) No nominating petition shall designate more than one person to be voted for as a Commissioner of Rehoboth Beach, or as Commissioner of Rehoboth Beach with the title of Mayor of the City of Rehoboth Beach.

(d) No qualified elector shall sign the nominating petition of more candidates than there are elective offices to be filled at such regular municipal election. Each qualified elector signing such petition shall also state whether he signed such petition as a freeholder or as a leaseholder or as a resident.

(e) There must be attached to each nominating petition an affidavit of the circulator thereof stating: the number of signers; that each signature appended thereto was made in his presence; that each signature is the genuine signature of the person whose name it purports to be; and that all of said signers are entitled to vote at the regular municipal election referred to.

The form of the nominating petition shall be substantially as follows:

We, the undersigned, electors of the City of Rehoboth Beach, hereby nominate

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<sup>1</sup> This edit eliminates a travel allowance provided to Commissioners who drive from their permanent home to Rehoboth Beach to attend meetings of the Commissioners or any committee upon which the Commissioner serves. This provision is not presently observed, so this edit will bring the Charter into conformity with present practice.

..... for the office of ..... to be voted for at the regular municipal election to be held in said City, on the ..... day of ..... in the year.....; and we individually certify that we are qualified to vote for a candidate for the office named, and that we have truly designated the capacity in which we have signed this petition as such qualified voter.

Name                      Freeholder                      Resident of Delaware & Rehoboth

(space for signatures)

State of Delaware:

SS

Sussex County:

..... being duly sworn (or affirmed) deposes and says that he is the circulator of the foregoing petition paper containing ..... signatures and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be, and that he verily believes the status of each signer thereof to be truly stated and that all of said signers are entitled to vote at the said regular municipal election referred to in said paper.

.....  
Circulator

SUBSCRIBED AND SWORN TO (or affirmed) before me this ..... day of, A.D. ....

.....  
Notary Public

**MANNER OF HOLDING ELECTIONS**

**Section 7.**

(a) Annual Municipal Elections shall be held on the second Saturday in the month of August from 10:00 in the morning, prevailing time, until 6:00 in the evening, prevailing time, at such public place or places as shall be determined by the Commissioners of Rehoboth Beach, due notices of which shall be given in compliance with the applicable provisions of 15 Del. C. § 7501 et seq. In the event there is no contest for any of the several offices in any year, the polls shall remain open for only one hour, commencing at 10:00 a.m. in the morning, prevailing time and closing at 11:00, prevailing time, on the second Saturday in August. Persons in the polling place at 6:00 in the evening shall be entitled to vote even though such votes may be cast after 6:00 in the evening, prevailing time.

(b) Voting Machines shall be utilized during Annual Municipal Elections in compliance with the applicable provisions of 15 Del. C. § 7501 et seq.

(c) Every Annual Municipal Election shall be held under the supervision of the Election Officials. The Election Officials shall consist of one (1) Inspector of the Election and such Officers of the Election as shall be appointed by the Commissioners of Rehoboth Beach. The Inspector and such Officers constituting the Election Officials shall be qualified voters of the City of Rehoboth Beach and shall be appointed for that purpose by the Commissioners at least two (2) weeks before such Annual Municipal Election. If, at the opening of the polls, the Election Officials shall not be present, then in such case the persons qualified to vote at such Annual Municipal Election and then present at the opening of the polls

shall, by viva voce, select a qualified voter or voters to act as the Election Officials to fill such vacancies caused by the absence of the Election Officials. The Election Officials shall be judges of the Annual Municipal Election and shall decide upon the legality of the votes offered. The Election Officials shall keep a true and accurate list of all voters voting at the Annual Municipal Election. The Election Officials shall have the power to subpoena persons, and officers of the City of Rehoboth Beach and books, records and papers relative to the termination of the validity of any vote or votes offered.

(d) At such annual election, every natural person, ~~male or female,~~<sup>2</sup> who shall have attained the age of Eighteen (18) years and every artificial entity<sup>3</sup> who shall be freeholder or leaseholder, as defined in this Chapter, in The City of Rehoboth Beach for a period of ~~Six (6) months~~ thirty (30) days<sup>4</sup> immediately preceding the date of such Annual Municipal Election, whether or not ~~such person is~~ a resident of the State of Delaware or of The City of Rehoboth Beach and whether or not such artificial entity is a Delaware entity<sup>5</sup> shall have One (1) vote, provided such person or artificial entity<sup>6</sup> is registered on the "Books of Registered Voters" of The City of Rehoboth Beach as set forth herein. In addition, every natural<sup>7</sup> person, ~~male or female,~~<sup>8</sup> who shall have obtained the age of Eighteen (18) years on the date of the Annual Municipal Election who shall be bona fide resident of the State of Delaware and The City of Rehoboth Beach on the date of the Annual Municipal Election shall be entitled to one (1) vote provided such person shall be registered on the "Books of Registered Voters" of The City of Rehoboth Beach as set forth herein. The Commissioners of Rehoboth Beach shall provide Two (2) registers to be known as the "Books of Registered Voters" which are to be kept at the office of the City Manager. The Books of Registered Voters shall contain the following information for each registrant: The names of the voters arranged in alphabetical order, The permanent address of the voter, the local address of the voter, the birth date of the voter, the date the registrant became a resident of the State of Delaware, the date the registrant became a resident of the City of Rehoboth Beach, the date the registrant became a freeholder of the City of Rehoboth Beach and other pertinent information. No natural person or artificial entity<sup>9</sup> shall be registered upon the Books of Registered Voters unless such person will have acquired the qualifications to vote in the Annual Municipal Election for the year in which such person registers. A person shall only be required to register One (1) time; ~~provided however, that if a registered voter fails to vote in Two (2) consecutive Annual Municipal Elections in which there is a contest, his name shall be removed from the Books of Registered Voters and notice sent to said registered voter at his last known address by registered mail with return receipt requested advising that his name has been removed from the list of registered voters and that it will be necessary to register again in order to be eligible to vote in the Annual Municipal~~

<sup>2</sup> The phrase "male or female" is unnecessary.

<sup>3</sup> This edit provides that in addition to natural persons, artificial entities that qualify as a freeholder or leaseholder may be eligible to register to vote. The term artificial entity is intended to mean any artificial entity permitted to have an interest in real property in Delaware. It is later clarified in this Section that there are criteria that must be established for an artificial entity to be eligible to register to vote.

<sup>4</sup> This edit reduces the period of time a natural person or artificial entity must be a freeholder or leaseholder to be eligible to register to vote. The period of time is reduced from six months to thirty days.

<sup>5</sup> This edit is intended to make clear that an artificial entity that qualifies as a freeholder or leaseholder need not be an artificial entity formed under the laws of Delaware.

<sup>6</sup> This edit clarifies that like a natural person, an artificial entity may have one (1) vote so long as the eligibility requirements are met.

<sup>7</sup> This edit distinguishes a natural person from an artificial entity.

<sup>8</sup> The phrase "male or female" is unnecessary.

<sup>9</sup> This edit requires that an artificial entity, like a natural person, must register to vote to be eligible to vote in an annual municipal election. Note that where a natural person may register to vote based upon their 50% or greater ownership in an artificial entity, the natural person would be registered on the Books of Registered Voters—not the artificial entity. If the Charter is amended in the ways proposed herein, City staff will need to be trained on the various registration criteria and the proper way to register natural persons and artificial entities.

Election.<sup>10</sup> The Books of Registered Voters shall be maintained at the office of the City Manager and shall conclusive evidence of the right of any person to vote at the Annual Municipal Election. A person may register at the Office of the City Manager during the regular business hours on any day until the close of business ~~on the second Friday in June in any year~~ thirty (30) days prior to the Annual Municipal Election.<sup>11</sup>

As used in this Chapter "Freeholder" means :

(1) a natural person who holds title of record to a fee simple estate or life estate in and to an undivided interest in real property in the City; or

(2) a natural person who holds title of record to real property in the City as a tenant by the entirety; or

(3) ~~who is a natural person who has at least a fifty percent (50%) interest in an artificial entity that holds title of record to a fee simple estate and to a one hundred percent (100%) undivided interest in real property in the City;~~<sup>12</sup> or

(4) an artificial entity that holds title of record to a fee simple estate and to a one hundred percent (100%) undivided interest in real property in the City, where no natural person has at least a fifty percent (50%) interest in the artificial entity<sup>13</sup> ~~both grantor/settler and trustee of a valid revocable trust to which real property located within the City has been conveyed, provided that a copy of the trust document identifying a grantor/settler and trustee is on file with the City~~<sup>14</sup>.

"Real Property" includes condominiums created under the Delaware Unit Property Act or the Delaware Uniform Common Interest Ownership Act<sup>15</sup>.

Where a natural person is eligible to vote as a Freeholder only by holding an ownership interest in an artificial entity, such person shall execute an ownership affidavit attesting to the eligibility qualifications provided herein.<sup>16</sup>

Freeholder artificial entity voting shall be by proxy naming a natural person not otherwise eligible to vote.<sup>17</sup>

<sup>10</sup> This edit discontinues the current requirement that a person is removed from the Books of Registered Voters if they fail to vote in two consecutive annual municipal elections. Note that the National Voter Registration Act of 1993 permits the removal of registered voters if the person has not voted in two federal elections and fails to respond to a notice. Section 8, National Voter Registration Act of 1993. The U.S. Supreme Court has recently agreed to hear an Ohio case that challenges the practice of purging voters from the registration list after two years of inactivity. *Husted v. A. Philip Randolph Institute*, No. 16-980. The Supreme Court will hear oral argument on November 8, 2017. The State of Delaware removes persons from the voter registration list when they have been placed on inactive status and then fail to vote in two consecutive general elections. 15 *Del C.* §1704(g). The State Code on Municipal Elections (15 *Del C.* §7500 *et seq.*) does not specifically address voter purging.

<sup>11</sup> This edit brings the Charter into compliance with State law, which prohibits a registration cutoff date more than 30 days prior to the annual election.

<sup>12</sup> This edit classifies a natural person as a freeholder when that person owns at least a 50% interest in a qualifying artificial entity. Note that the person—not the artificial entity—is classified as a freeholder.

<sup>13</sup> This edit classifies an artificial entity as a freeholder when the artificial entity owns a qualifying interest in real property in the City and no natural person has at least a 50% interest in the artificial entity.

<sup>14</sup> This edit removes language that is specific to trusts because under the current proposal, trusts would be treated like any other artificial entity.

<sup>15</sup> The edit recognizes that amendments to the Delaware Code established the Delaware Uniform Common Interest Ownership Act as the current Act under which condominiums are created.

<sup>16</sup> This provision is intended to create a mechanism to confirm and document a person's status as a freeholder when that status is established through an ownership interest in an artificial entity.

<sup>17</sup> This edit creates a proxy mechanism for artificial entity voting. The person provided the proxy to vote on behalf of an artificial entity may not be otherwise eligible to vote. Stated differently, a person voting on behalf of an

As used in this Chapter "Lease" means a valid lease to real property in the City, ~~a copy of which being on file with the City for a term of at least ten (10) years which lease is recorded in the Office of the Recorder of Deeds in and for Sussex County and upon which real property is erected an improvement having an assessed valuation of at least one thousand dollars (\$1,000.00) as shown by the records of the City of Rehoboth Beach.~~<sup>18</sup>

~~As used in this Chapter "Leaseholder" as used in this Chapter means: an individual~~  
~~(1) a natural person holding title to an undivided interest in a lease; or~~  
~~(2) a natural person who holds title to a lease as a tenant by the entirety; or~~  
~~(3) a natural person who has at least a fifty percent (50%) interest in an artificial entity that holds a one hundred percent (100%) undivided interest in a lease;<sup>19</sup> or~~  
~~(4) an artificial entity that holds a one hundred percent (100%) undivided interest in a lease, where no natural person has at least a fifty percent (50%) interest in the artificial entity.<sup>20</sup>~~

As used herein "resident" shall mean ~~an individual actually~~ natural person residing and domiciled in the City of Rehoboth Beach for a period of ~~at least thirty (30) days~~ 6 months<sup>21</sup> immediately preceding the date of the election.

~~Where a natural person is eligible to vote as a Leaseholder only by holding an ownership interest in an artificial entity, such person shall execute an ownership affidavit attesting to the eligibility qualifications provided herein.<sup>22</sup>~~

~~Leaseholder artificial entity voting shall be by proxy naming a natural person not otherwise eligible to vote.<sup>23</sup>~~

(e) In the event of a challenge to the identity or qualifications of a voter, the Inspector of the Election shall hear and decide the challenge.

(f) Upon the close of the election, the votes shall be read and counted publicly and the person having the highest number of votes for each office shall be declared, by the Election Officials, to be duly elected, and such person shall continue in office during the terms for which they were chosen, or until their successors are duly elected or appointed and qualified.

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~~artificial entity may not cast an additional vote(s) because the person is eligible to vote in some other capacity as freeholder or leaseholder.~~

<sup>18</sup> ~~This edit requires that leaseholders provide a copy of the lease to the City for confirmation of leaseholder status but removes the requirements that the lease must be recorded with the Recorder of Deeds in Sussex County, and also removes the requirement that the lease must be for at least ten years, and also removes the requirement of a \$1,000 improvement on the property.~~

<sup>19</sup> ~~This edit classifies a natural person as a leaseholder when that person owns at least a 50% interest in a qualifying artificial entity. Note that the person—not the artificial entity—is classified as a leaseholder.~~

<sup>20</sup> ~~This edit classifies an artificial entity as a leaseholder when the artificial entity owns a qualifying interest in a lease to real property in the City and no natural person has at least a 50% interest in the artificial entity.~~

<sup>21</sup> ~~This edit makes the City Charter consistent with current Delaware law.~~

<sup>22</sup> <sup>22</sup> ~~This provision is intended to create a mechanism to confirm and document a person's status as a leaseholder when that status is established through an ownership interest in an artificial entity.~~

<sup>23</sup> ~~This edit creates a proxy mechanism for artificial entity voting. The person provided the proxy to vote on behalf of an artificial entity may not be otherwise eligible to vote. Stated differently, a person voting on behalf of an artificial entity may not cast an additional vote(s) because the person is eligible to vote in some other capacity as freeholder or leaseholder.~~

(g) In the event of a tie vote for any office, the Election Officials shall determine the tie by lot.

(h) The Election Officials, as soon as possible after the polls have closed and the results announced, shall deliver all election documents, envelopes, and absentee ballots to the Board of Elections. The Board of Elections shall secure the documents, envelopes, and absentee ballots until such time that they need to canvass the election.

(i) The Election Officials shall enter in a book, to be provided for that purpose, a minute of the election, containing the names of the persons chosen. They shall subscribe the same and shall give to the persons elected certificates of their election. The book, containing such matters, shall be preserved by The Commissioners and shall be evidence in any Court of Law and Equity.

## **ANNUAL ORGANIZATION MEETING OF COMMISSIONERS**

### **Section 8.**

(a) The Commissioners of Rehoboth Beach, at the first regular meeting in September following the annual election, shall meet for the purpose of organization at the usual place for holding meetings of The Commissioners of Rehoboth Beach. The newly elected officers shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, a Justice of the Peace or by a holding-over member of The Commissioners. The newly elected Commissioner with the title of Mayor of The City of Rehoboth Beach shall assume the chair of the office of Mayor of The City of Rehoboth Beach. The Commissioners shall likewise select a Secretary from their own number to serve until the first regular meeting after the next succeeding election. They shall also choose an Assistant Secretary to serve as aforesaid, who may or may not be from among their own number and such other officers and employees as maybe determined to be necessary.

(b) The Commissioners shall by ordinance fix the salaries and compensation of the employees, officers and agents of the City, and the time and manner of his or her, or their payment; Provided, that the salary or compensation of any such employee, officer or agent shall not be increased, during the term of said office should said appointment thereto be for a designated term. No officer, employee or agent of the City shall in any form have, take, or receive from the City any compensation, in any form, in addition to the salary or compensation fixed by The Commissioners.

(c) The Commissioners shall cause to be kept a full and complete record of all officers appointed, and employees and agents hired by the City, containing the names of such officers, employees and agents, the dates of their employment, the salary and compensation to be by them received and the date of the termination of their services. In the event that they shall hold their office for an indefinite term, the record shall so state.

## **REGULAR AND SPECIAL MEETING**

### **Section 9.**

(a) The Commissioners of the City of Rehoboth Beach shall hold meetings at the call of the Mayor (or majority of Commissioners).

(b) The Commissioners of the City of Rehoboth Beach shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at such meeting, called as aforesaid. There shall be not less than one meeting held per month.

(c) All meetings shall be subject to the provisions of Title 29, Chapter 100, Delaware Code.

## **QUORUM**

### **Section 10.**

(a) A majority of the members elected to the Commissioners of Rehoboth Beach shall constitute a quorum; but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by a majority of the entire Commissioners.

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