

Article VIII Election Rules and Procedure**Sec. 8-01. The General Municipal Election.**

The General Election shall be held in the City Hall or some other suitable building within the City limits designated by the Mayor and Council on the first Tuesday in April of each and every year. The City Secretary shall post a notice of solicitation of candidates conspicuously within the municipality twenty (20) days prior to the filing deadline for the offices up for election, which shall include the term or terms of each office up for election, the deadline and procedure for declaring candidacy for an office up for election, and the qualifications for holding each office. The City Secretary shall also post a notice of election conspicuously at least twenty (20) days prior to the election or referendum, and such notice shall contain the date, time, and location of the election, the candidates for each office on the ballot or the referenda to be considered, and the qualifications to vote in the election. All such notices shall be posted on the City's website and in five or more public places in the City of Delaware City, one of which shall include City Hall. All such notices shall also include information about how to obtain an absentee ballot.

Sec. 8-02. Filing for the Office of Mayor and Councilperson.

Filing for the office of Mayor and Councilperson shall be by letter signed by the candidate and there shall be no party designation on any such letter beside the name of any candidate or on any ballot in any municipal election.

All persons desiring to be candidates at any municipal election shall file with the City Secretary of the City of Delaware City a written and signed statement of their candidacy at the City Hall during normal business hours; for Councilperson, not later than thirty (30) days before the election; and for Mayor, not later than sixty (60) days before the election. The City Secretary is authorized to accept a notice of Withdrawal signed by the candidate up until twenty (20) days before the election. If a seated Councilperson is elected Mayor, he/she must resign that office effective the first regular meeting in April and prior to the installation of the new officials.

Sec. 8-03. The Election Board of Delaware City.

All municipal elections shall be held by an Election Board consisting of not less than three (3) nor more than five (5) qualified voters, not Councilpersons, appointed annually by

the Mayor, with the advice and consent of a majority of all members of Council.

The Election Board shall perform all functions required of the Board pursuant to Title 15 of the Delaware Code and as established by ordinance. In addition, when the polls have been closed, the Election Board shall publicly count and/or tabulate the ballots, certify the results of the election to each of the persons elected and to the Mayor and Council by giving them "Certificates of Election" and enter the results of the election, by name, office and ballot count, as a minute of such election in a book designated for that purpose.

Sec. 8-04. Voter Qualifications.

A "qualified voter" is a natural person that has reached the age of eighteen (18) years of age, who is a citizen of the United States, is registered to vote under the State voter registration system maintained by the Department of Elections, and maintains his or her permanent place of residence within the City limits of the City of Delaware City. Any person who can prove the foregoing by proper identification, as required by Del. Code Ann. tit. 15, § 7554(d) as may be amended from time to time, shall be entitled to vote at all regular and special municipal elections and referenda.

Sec. 8-05. Absentee Voting.

Absentee ballots by qualified voters unable to be at the polls at any election or referendum shall be governed by the requirements of Title 15, Chapter 75, and Subchapter V of the Delaware Code, as amended from time to time.

Sec. 8-06. Polling Places and Regulations.

The Mayor and Council shall designate the polling places which shall be open from 12 o'clock noon to 8 o'clock p.m. on all municipal election and referendum days. The Mayor and Council shall, by ordinance, make all necessary regulations not inconsistent with this Charter or with State laws, for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud.

Sec. 8-07. Voting Machines.

Voting machines shall be used at all municipal elections in which a contest exists and shall be so constructed as to permit the voter to vote for the candidates duly nominated pursuant to the provisions of this Charter or to write in the name of any candidate of his choice for any office. The official ballots provided for municipal elections shall contain the names of all nominees for the office of Mayor, listed alphabetically under a heading reading "CANDIDATES FOR MAYOR --- VOTE FOR ONLY ONE". The ballots for Councilpersons shall contain the names of all nominees for the office of Councilperson, listed alphabetically under a heading reading "CANDIDATES FOR COUNCIL"; thereunder shall be a designation of the number of Council seats open and an instruction to vote for only that number of nominees for Council; i.e., "3 COUNCIL SEATS --VOTE FOR ONLY 3". A plurality of all votes cast shall make the choice. If a one-year seat is open for election a separate designation shall be made for that one-year term on the ballot.

Sec. 8-08. Failure to Hold Election, Uncontested Election.

A failure to hold an election, or the omission to execute any authority conferred by this act, shall not dissolve the corporation, but the authority of each officer shall continue until their successors are chosen. Any qualified voter under this Charter can bring an action in any competent court in the State of Delaware to compel the Mayor and Council to cause such an election to be held, at which election the Mayor and all Members of Council shall be elected; those receiving the highest number of votes receiving the longer terms and those receiving a lesser number of votes receiving the shorter term, until all offices are filled.

In the event an election is not contested, and it shall not be necessary to open the polls. The requirement for a voting machine shall be dispensed with in the event the entire election is uncontested.

Article III Mayor and Council**Sec. 3-01. Form of Government.**

The form of government established by this Charter shall be known as the Council-Manager form. The Mayor shall continue to be elected by the people and shall have the power of appointment and the power to approve or veto ordinances.

Sec. 3-02. The Council.

The Council shall consist of five (5) Councilpersons at large. The Mayor and Council may, however, provide by ordinance for Council districts from which each member of Council would be elected. Such districting could only be enacted upon a unanimous vote of Mayor and Council. It shall be the duty of each Councilperson to propose necessary and appropriate legislation and resolutions for Council consideration; serve on committees designated by the Mayor and Council; attend public hearings on proposed legislation; be available and responsive to constituents; and perform all other duties as provided in this Charter and by law. At each Mayor and Council meeting, each member of Council may report their activities on behalf of the City.

Sec. 3-03. The Mayor.

It shall be the duty of the Mayor to preside at all meetings of Council and to see that the laws, ordinances, rules and regulations of the City are faithfully executed. The Mayor shall have custody of the seal of the Corporation and shall have the right of affixing the seal. The Mayor shall approve or veto all ordinances, acts or resolutions of the Council; in accordance with the procedures set forth in this Charter or by ordinance.

The Mayor may report to Council on a monthly basis regarding activities of the Mayor undertaken on behalf of the City in an official capacity, including, but not limited to, marketing of the City, ceremonial appearances, and other public acts or actions on behalf of the City. In the case of a tie vote of Council, the Mayor shall have the authority to cast the deciding vote of Council on resolutions, motions and/or ordinances.

The Mayor shall also have the power to administer oaths and affirmations. The Mayor shall appoint all committees, subject to confirmation by Council and shall be recognized as the head of the City Government. The Mayor shall appoint, subject to confirmation by a majority of the members of Council, a City Manager to oversee and manage the administrative affairs of the City.

Sec. 3-04. The Vice-Mayor.

At the first regularly scheduled meeting following an election, the Mayor and Council shall elect, by a majority vote, among its members a Vice-Mayor who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall become Mayor for the remainder of the unexpired term. However, the Vice-Mayor may vote on all resolutions, motions and ordinances when temporarily acting as Mayor.

Sec. 3-05. Qualifications for Mayor and Councilpersons.

Any qualified voter (as that term is defined in this Charter) of the City of Delaware City who is at least eighteen (18) years of age, who is a United States citizen, who has not been convicted of a felony as that crime is designated by the State of Delaware, and who is a resident of the City for at least one (1) year next preceding his/her election at the time his/her nominating petition is filed, shall be eligible to hold the office of Mayor or Councilperson. A person seeking to hold the office of Mayor or Councilperson shall establish one (1) year residency at the time his/her nominating petition is filed by furnishing identification and proof of residency by the means established by the General Assembly for voting, currently codified in Title 15, Section 7554 (d) of the Delaware Code, and as amended from time to time.

Sec. 3-06. Election and Terms of Office.

The general municipal election shall be held on the first Tuesday in April each and every year from 12 o'clock noon until 8 o'clock in the evening, local time. The Mayor and Council of said City shall continue to hold office during the respective terms for which they were elected or until their successors have been duly chosen and qualified. On the first Tuesday in April of every year which has the last digit as an odd, the Mayor and two (2) members of Council shall be elected to hold office for the term of two (2) years or until their successors have been duly chosen and qualified. On the first Tuesday in April of every year which has the last digit as an even number, the remaining three (3) members of Council shall be elected to hold office for the term of two (2) years or until their successors have been duly chosen and qualified.

The term of the Mayor and the Councilmembers shall begin on the date they take the oath of office. Within ten (10) days after any election, a special meeting shall be called for the purpose of swearing in the newly elected Mayor or Councilpersons. The oath shall be

administered by the Mayor, and the Councilperson with the most seniority shall administer the oath of office for any newly elected Mayor.

Sec. 3-07. General Powers and Duties.

All powers of the City shall be vested in the Mayor and Council, except as otherwise provided by law or this Charter, and the Mayor and Council shall provide for the exercise thereof and for performance of all duties and obligations imposed on the City by law.

Sec. 3-08. Council Prohibitions.

A. Holding Other Office. Except where authorized by law, no Mayor or Councilperson shall hold any other City office or City employment during the term for which elected to Council, and no Mayor or Councilperson shall hold any compensated appointive City office or employment until two (2) years after the expiration of the term for which elected to Council.

B. Appointments and Removals. Neither the Mayor nor the Council, nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, but the Mayor and Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

C. Interference with Administration. Except for the purpose of inquiries and investigations, the Mayor and Councilpersons shall deal with city officers and employees (other than the Solicitor) who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor nor the Council, nor its members shall give orders to any such officer or employee, either publicly or privately, nor shall the Mayor nor any Councilperson usurp any power given to the City Manager in this Charter.

Sec. 3-09. Vacancies and Forfeiture of Office.

A. Vacancies. The office of Mayor or Councilperson shall become vacant upon death, removal from the City, resignation, removal from office in any manner authorized by law, or forfeiture of office.

B. Forfeiture of Office. The Mayor or Councilperson shall forfeit office if: (1) he/she lacks, at any time during his/her term of office, any qualification for the office prescribed by this Charter or by law; (2) violates any express prohibition of this Charter; (3) is convicted of a felony as that term is defined by the State of Delaware; (4) failure to attend three (3) successive regular monthly meetings at any time or failure to attend four (4) regular monthly meeting in any twelve-month period, without a legitimate excuse for absence at each meeting, as determined by a vote of a majority of all members of the Mayor and Council in attendance at each such meeting of the Mayor and Council, or (5) is deemed to have forfeited his or her office under the provisions of Section 3-10 of this Charter.

C. Filling of Vacancies. In case of vacancy for any cause in the Office of Mayor, the Vice-Mayor, who is appointed by the majority vote of the Council, shall fill such vacancy. In the case of a vacancy for any cause in the office of Councilperson, the Council, upon a majority vote shall make a temporary appointment within thirty (30) days to fill such vacancy. Such appointment shall continue until the next general municipal election. Thereafter, such office shall be filled by election and the person so elected shall serve for the remainder of the term of the Councilperson whose office became vacant.

Sec. 3-10. Judge of Qualifications of Members.

The Mayor and Council shall be the judge of the qualifications of its members and of the grounds for forfeiture of the office of Mayor or Councilperson, and for such purposes, shall have power to subpoena witnesses, take testimony, and require the production of records. A member charged with conduct constituting grounds for forfeiture of his office (which may include any violation of ethical standards established by the Delaware Code, by this Charter, or by Ordinance) shall be entitled to a public hearing before the Mayor and Council on demand; and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least ten (10) days in advance of the hearing. Four (4) votes of the Council are required to remove the Mayor or any sitting Councilperson from office.

Sec. 3-11. Mayor and Council Compensation and Expenses.

The Mayor and Council shall determine the annual salary of the Mayor and Councilpersons by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of members of the Mayor and Council elected at the next regular election, provided that such election follows the