City of Rehoboth Beach

**Intent of proposed Charter Amendments**

**relating to voting and municipal elections**

November 18, 2017

On October 30, 2017, proposed Charter amendments relating to Rehoboth Beach municipal elections and voting were introduced at a regular meeting of the City Commissioners. This memorandum describes the intent of the proposed revisions. Each of the proposed revisions should be construed in accordance with principle of “one person, one vote” and to make that clear, the proposed amendments include the following provision:

These provisions shall be construed in accordance with the principle of "one person, one vote": If a voter is entitled to vote by virtue of being both a resident of the City and a Freeholder, the voter is entitled to only one vote; If a voter is entitled to vote by virtue of being both a resident of the City and a Leaseholder, the voter is entitled to only one vote; If a voter is entitled to vote by virtue of being both a Freeholder and a Leaseholder, the voter is entitled to only one vote; if a voter is entitled to vote by ownership of two or more parcels of real property, the voter is entitled to only one vote.

1. **Voter Purging**

**Current:** Section 7(d) of the Charter provides that when a registered voter fails to vote in two consecutive Annual Municipal Elections, the voter shall be removed from the Books of Registered Voters.

**Proposed:** The proposed amendment would delete the current Charter provision and replace it with one that more closely resembles the State of Delaware’s authorized purging system at Title 15, Section 1704. The proposed system would require the City to send a voter verification card to voters who have not voted in two consecutive Annual Municipal Elections. The voter may return the card authorizing the City to remove the voter from the Books of Registered Voters because the person is no longer eligible to vote, or return the card confirming the person remains eligible to vote. If the card is not returned after 60 days, the City may place the person on “inactive status.” If the card is subsequently returned confirming the person’s voter eligibility or if the person votes while on inactive status, the person is returned to active status. If, however, a person in “inactive status” does not vote in two consecutive Annual Municipal Elections where there is a contest, the City will remove the person from the Books of Registered Voters.

1. **30 Day Residency Requirement for Resident-Voters**

**Current:** Section 7(d) of the Charter defines “resident”, for purposes of qualifying to register to vote as resident, as “an individual actually residing and domiciled in the City of Rehoboth Beach for a period of at least 6 months immediately preceding the date of the election.”

**Proposed:** The proposed amendment would change the residency requirement for residency voters from 6 months to 30 days. This proposed amendment would make the Charter consistent with current Delaware law.

1. **30 Day Requirement for Non-Resident Freeholder and Leaseholder Voters**

**Current:** Section 7(d) of the Charter requires that a person qualify as a Freeholder or Leaseholder for a period of 6 months immediately preceding the Annual Municipal Election to vote.

**Proposed:** The proposed amendment reduces the period of time a person must be a freeholder to be eligible to vote from 6 months to 30 days. The proposed amendment leaves unchanged the current requirement that a person must qualify as a Leaseholder for a period of 6 months immediately preceding the Annual Municipal Election to be eligible to vote.

1. **Freeholder Voting by Natural Persons through a Limited Liability Company**

**Current:**  The Charter does not currently provide for Freeholder voting by natural persons through a Limited Liability Company.

**Proposed:** The proposed amendment would revise Section 7(d) of the Charter such that a natural person would qualify as a Freeholder, making the natural person eligible to register to vote, when the natural person has at least a fifty percent (50%) interest in a Limited Liability Company 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.

The intent of this provision is to allow up to two natural persons who are not presently qualified to vote, to qualify as Freeholders. A person only becomes eligible to vote under the proposed provision when:

1. A Limited Liability Company owns a parcel of real property in the City; and
2. No other artificial entity or natural person owns any portion of the real property; and
3. The natural person owns at least 50% of the Limited Liability Company.

As verification, the proposal requires that the following records be submitted to the City:

1. The Limited Liability Company’s Certificate of Formation; and
2. The page or pages of the Limited Liability Company’s Operating Agreement demonstrating that the natural person has at least a fifty percent (50%) interest in the Limited Liability Company; and
3. The deed of record confirming that the Limited Liability Company holds title of record to a fee simple estate and to a one hundred percent (100%) undivided interest in real property in the City.

The proposal also clarifies the existing voting as a Freeholder by a natural person that holds title of record to real property in the City through a valid revocable trust where the natural person is both grantor/settler and trustee of the valid revocable trust, provided that a copy of the trust document identifying a grantor/settler and trustee is on file with the City.

If a person elects to register to vote under this provision, the same person would not be permitted to vote a second time even if they qualified to vote under a separate category. For example, if a natural person were a resident of the City and also qualified as a Freeholder because they owned 50% of a Limited Liability Company owning 100% of real property in the City, such natural person would only be permitted to vote one time.