**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 the Commissioner’s qualifications by The Commissioners as hereinafter provided or at the time of the Commissioner’s 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 the qualifications as aforesaid during the term of office, that Commissioner or Mayor shall ipso facto vacate 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 the individual seeks the Office of Commissioner of Rehoboth Beach, but also that the individual 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, the elected officer shall forthwith be disqualified to act as such officer and the elected officer shall, ipso facto, vacate the 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 the Commissioner’s 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 the non-resident Commissioner 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 the standard mileage rate set annually by the Internal Revenue Service.

**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 Monday 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 the person was nominated; provided, the person possesses the qualifications of an incumbent of that office as prescribed by this Charter. The Commissioners of Rehoboth Beach shall be judge of the person’s 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 the qualified elector 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 the circulator’s 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

.................................... 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 the individual is the circulator of the foregoing petition paper containing ............................. signatures and that the signatures appended thereto were made in the circulator’s presence and are the signatures of the persons whose names they purport to be, and that the circulator 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[[1]](#footnote-1) who shall have attained the age of Eighteen (18) years and who shall be freeholder, as defined in this Chapter, in The City of Rehoboth Beach for a period of thirty (30) days[[2]](#footnote-2) immediately preceding the date of such Annual Municipal Election or who shall be a leaseholder, as defined in this Chapter, in The City of Rehoboth Beach for a period of Six (6) months 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 shall have One (1) vote, provided such person is registered on the "Books of Registered Voters" of The City of Rehoboth Beach as set forth herein. In addition, every natural[[3]](#footnote-3) person[[4]](#footnote-4) who shall have obtained the age of Eighteen (18) years on the date of the Annual Municipal Election who shall be a 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 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, the City may send a voter verification request by forwardable first-class mail to the voter at the voter’s last known address asking the voter to sign a return card and: (1) authorize cancellation of their Rehoboth Beach voter registration because they are no longer eligible to vote as a resident, Freeholder, or Leaseholder in Annual Municipal Elections, or (2) confirm that the voter continues to be eligible to vote in Annual Municipal Elections. The City, upon receipt of the returned notice and in accordance with the response, shall: (1) cancel the person’s registration, or (2) update the person’s voter registration record with any new information and certify the person remains eligible to vote. Sixty days following a voter verification mailing, the City shall place all persons who did not reply to the voter verification request into “inactive status.” A person shall be returned to active status if the person subsequently returns the return card indicating the person continues to be eligible to vote in Annual Municipal Elections, or if the person votes in an Annual Municipal election while in “inactive status.” The City shall remove from the Books of Registered Voters any person who remains in “inactive status” for two consecutive Annual Municipal Elections in which there is a contest. .[[5]](#footnote-5) The Books of Registered Voters shall be maintained at the office of the City Manager and shall be 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 thirty (30) days prior to the Annual Municipal Election.[[6]](#footnote-6)

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) a natural person who 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;[[7]](#footnote-7) or

(4) 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.

"Real Property" includes condominiums created under the Delaware Unit Property Act or the Delaware Uniform Common Interest Ownership Act[[8]](#footnote-8).

Where a natural person is eligible to vote as a Freeholder only by holding a fifty percent (50%) ownership interest in a Limited Liability Company, such person shall provide the following records confirming the eligibility qualifications provided herein:[[9]](#footnote-9)

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

As used in this Chapter "Lease" means a valid lease to real property in 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.[[10]](#footnote-10)

As used in this Chapter "Leaseholder" means:

(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.

As used herein "resident" shall mean a natural person residing and domiciled in the City of Rehoboth Beach for a period of at least thirty (30) days[[11]](#footnote-11) immediately preceding the date of the election. As used herein “domicile” shall mean the place where a person has their true, fixed, permanent home, and principal establishment, and to which, whenever the person is absent, the person has the intention of returning, and where the person exercises their political rights.[[12]](#footnote-12)

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.[[13]](#footnote-13)

(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.

(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.

1. The phrase “male or female” is unnecessary. [↑](#footnote-ref-1)
2. This edit reduces the period of time a natural person must be a freeholder to be eligible to register to vote. The period of time is reduced from six months to thirty days. [↑](#footnote-ref-2)
3. This edit distinguishes a natural person from an artificial entity. [↑](#footnote-ref-3)
4. The phrase “male or female” is unnecessary. [↑](#footnote-ref-4)
5. 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 was scheduled to hear oral argument on November 8, 2017, but the argument has been removed from the calendar and no new date has been publishd. 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. [↑](#footnote-ref-5)
6. 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. [↑](#footnote-ref-6)
7. 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. [↑](#footnote-ref-7)
8. 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. [↑](#footnote-ref-8)
9. 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 a Limited Liability Company. [↑](#footnote-ref-9)
10. 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. [↑](#footnote-ref-10)
11. This edit makes the City Charter consistent with current Delaware law. [↑](#footnote-ref-11)
12. This edit adds a definition of “domicile” that has been used in United States case law. *In re Garneau*, 127 F. 677 (7th Cir. Ill. 1904). [↑](#footnote-ref-12)
13. This edit is intended to make overwhelmingly clear that the principles of “one person, one vote” are to be exercised. [↑](#footnote-ref-13)