

**Rev. 1  
#0217**

**WHEREAS**, the City of Wilmington is a home rule charter city, which

**Sponsor:**

empowers the City to govern itself in matters of local concern, unless specifically denied by State statute; and

**Council  
Member  
Hackett**

**WHEREAS**, the City, under its home rule authority, has broad and substantial

**Co-Sponsors:**

legislative and administrative powers over its municipal functions, including elections;

**President  
Congo**

and

**WHEREAS**, City Charter Section 2-101 governs Council elections and City Charter 2-103 governs qualifications of Councilmembers and forfeitures of their seats; and

**WHEREAS**, minority-party at-large seats are uniquely tied to the City's representational structure; as such, a party-switch during an active term undermines the representational premise of the at-large minority seat; and

**WHEREAS**, City Council deems it appropriate to amend the Wilmington City Charter to prohibit a councilmember-at-large in a minority political party from changing their political party affiliation (through voter registration) during an active term; and

**WHEREAS**, the proposed amendments concern municipal governance and Council composition / qualifications and are thus appropriate to fall within the City's home rule authority; and

**WHEREAS**, pursuant to Title 22, Section 811 of the Delaware Code, a municipal corporation's home rule charter may be amended by act of the Delaware

General Assembly passed with the concurrence of two-thirds of all members elected to each House thereof.

**NOW, THEREFORE, BE IT RESOLVED BY THE WILMINGTON CITY COUNCIL,** that this Council respectfully requests the members of the Delaware General Assembly to amend Sections 2-101 and 2-103 of the City of Wilmington Charter with the addition of the underlined language to read as follows:

**Sec. 2-101. The election of councilmenmembers; vacancies.**

At the general election to be held on the Tuesday next after the first Monday in November, 1968, and on the same day in every fourth year thereafter on which general elections are held, one councilmanmember shall be elected from each councilmanic district and four (4) from the city at large, together with the president of the council who shall be elected at large. Each elector shall have the right to vote for one district councilmanmember, the president of the council, and (3) councilmanmembers -at-large. Councilmembers-at-large are elected by all the voters of the city. To this end not more than three (3) candidates for councilmanmember -at-large shall be nominated pursuant to law by any party or other political body. In order to ensure minority representation, any councilmember-at-large elected to city council who is a member of the minority political party in which there are three councilmen-at-large of the same party affiliation and one councilman-at-large of a different party affiliation, shall not change their voter registration political party affiliation during the term in which they were elected to city council. When a vacancy occurs in the office of a councilmanmember, the city council shall certify that a vacancy exists. A

vacancy occurring more than thirty (30) days prior to the date of a primary election in which city officers are nominated shall be filled in the next succeeding general election held in the city. Councilmanmembers elected in this manner to fill a vacancy shall take office on the first Tuesday following their election. If a vacancy occurs in the period less than thirty (30) days before the date of a primary election or pending the election of a councilmanmember to fill a vacancy as herein provided, the city council, by a majority vote of all its remaining members, shall appoint a qualified person to fill the vacancy until a person is elected by the voters for the unexpired term. If the vacancy occurs in the office of a district councilmanmember, the new member shall come from the same councilmanic district; but if the vacancy occurs in the office of a councilmanmember -at-large, the new member may come from any place in the city. Council in filling a vacancy must appoint a member of the same political party as that of the councilmanmember whose office has become vacant. In the event of a vacancy in the office of president of council, the council shall appoint by majority vote from among its members a president of the council to fill the unexpired term. The council office of the councilmanmember so appointed president of the council shall in turn become vacant and shall be filled as herein-provided for council vacancies.

All citizens qualified by the Constitution and the laws of the State of Delaware to vote in the city and who satisfy the requirements for registration prescribed by law shall be qualified to vote for the members of the city council, president of the council, the mayor, and other elected city officials. Except as

otherwise provided by this Charter, the provisions of the election laws of the State of Delaware shall apply to elections held under this Charter. All elections provided for by this Charter shall be conducted by the election laws of the State of Delaware. The nomination of persons to be candidates in the general election for mayor, city councilmanmembers, president of the council, and other elected city officials shall be governed by the election laws of the State of Delaware.

**Sec. 2-103. Qualifications of councilmenmembers.**

A councilmanmember shall be a citizen of the United States, shall be a qualified elector of the city and shall have been such for at least one year prior to his election. No councilmanmember shall hold any other city office or employment during the term for which he was they were elected to the city council. A councilmember-at-large in a minority political party in which there are three councilmen-at-large of the same party affiliation and one councilman-at-large of a different party affiliation must remain with the same voter registration political party affiliation for the entire term for which they were elected to city council. A councilmanmember shall not be less than twenty-five (25) years of age when elected to office. HeThey shall remain a resident of the councilmanic district from which he was they were elected during histheir term of office. If a councilmanmember shall cease to possess any of these qualifications, including in the case of a councilmanmember elected from a councilmanic district, residence in the district from which he wasthey were elected, or if hethey shall violate any expressed prohibition of this Charter, or if he bethey are convicted of a crime involving moral turpitude, histheir office shall immediately be forfeited and become vacant. The office of a councilmember-at-large in a minority political party shall also be immediately forfeited

and become vacant if they change their voter registration party affiliation to a majority party affiliation in which there are three councilman-at-large of the same party affiliation during the term in which they were elected to city council. A councilman~~man~~member shall be deemed to have been convicted of a crime involving moral turpitude upon ~~his~~their conviction in superior court of the State of Delaware, or by an inferior court if its decision is not appealed to the superior court. A member charged with conduct constituting grounds for forfeiture of ~~his~~their office shall be entitled to a public hearing on demand. The council shall be the sole judge of the qualifications and election of its members and for this purpose shall have power to subpoena witnesses and require the production of records.

Passed by City Council,

ATTEST: \_\_\_\_\_  
City Clerk

**SYNOPSIS:** This Resolution initiates a proposed amendment to Wilmington City Charter Sections 2-101 and 2-103 to prohibit a councilmember-at-large in a minority political party in which there are three councilmembers-at-large of the same party affiliation and one councilmember of a different party affiliation from changing their voter registration political party affiliation during an active term for which they were elected to City Council. Under the proposed amendments, if such a councilmember-at-large changes their political party affiliation to a majority party affiliation in which there are three councilmembers-at-large of the same party affiliation during an active term, such an act would result in the automatic forfeiture and vacancy of their seat. The proposed amendments are intended to ensure representation of minority political parties on City Council.