

CHAPTER 49
FORMERLY
HOUSE BILL NO. 176

AN ACT TO AMEND THE CHARTER OF THE CITY OF REHOBOTH BEACH RELATING TO THE ALDERMAN AND ASSISTANT ALDERMAN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend the Charter of the City of Rehoboth Beach by making insertions as shown by underlining and deletions as shown by strike through as follows:

Alderman and Assistant Alderman

Section 21A.

~~(a) The Mayor upon the approval of this Act, shall appoint some suitable person to act as Assistant Alderman. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be at least Twenty One (21) years of age, shall be of good character and reputation, and shall be a resident within six (6) miles of the corporate limits of The City of Rehoboth Beach and shall not be a member of the Commissioners of Rehoboth Beach. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be appointed for an indefinite term and any such appointment shall be confirmed by a majority of all members of the Commissioners of Rehoboth Beach. Either the Alderman or the Assistant Alderman may be removed from office at any time by the affirmative vote of Two Thirds (2/3) of all the elected members of the Commissioners of Rehoboth Beach.~~

~~(b) Before entering upon the duties of his office, the persons appointed by the Mayor to serve as Alderman and Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of his office honestly, faithfully, and diligently and to uphold and enforce the Charter of the City of Rehoboth Beach and ordinances duly enacted by the Commissioners of Rehoboth Beach and to carry into effect all orders of the Commissioners of Rehoboth Beach made pursuant to any law of this State. The Assistant Alderman shall perform the functions of the Alderman if the Alderman is unavailable and at such other times as may be designed by the Mayor. During such periods, the Assistant Alderman shall have all the powers and duties of the Alderman.~~

~~(c) The Commissioners of Rehoboth Beach shall procure a suitable record for the use of the Alderman and the Assistant Alderman. Such record shall be known as the "Alderman's Docket." The Alderman and the Assistant Alderman shall each record all official acts and proceedings in the "Alderman's Docket."~~

~~(d) The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of the City of Rehoboth Beach so far as to arrest and hold for bail, or fine and imprison offenders for any offense, penalty or forfeiture prescribed by the Charter of the City of Rehoboth Beach and any ordinance enacted thereunder; of all neglects, omissions or defaults of any City Officer, agent, or employee; PROVIDED, HOWEVER, that neither the Alderman nor the Assistant Alderman shall impose any fines in excess of Five Hundred Dollars (\$500) nor imprison any offender for more than sixty (60) days except as otherwise provided in the Charter of the City of Rehoboth Beach. The Alderman and the Assistant Alderman may, in addition to any fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by ordinance by the Commissioners of Rehoboth Beach; PROVIDED, HOWEVER, that no cost shall be imposed which is in excess of that which may be imposed by a Justice of the Peace for like service.~~

~~(e) The Alderman and the Assistant Alderman shall prepare and submit a monthly report to the Commissioners of Rehoboth Beach reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the City all such fines and penalties.~~

~~(f) If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he shall deliver to the City Manager, within two (2) days after his removal from office, all the books and papers belonging to his office, and shall pay over to the City Manager all monies in his hands within (5) days after receiving the notice of his removal from office. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or the Assistant Alderman, the City Manager shall require the auditor of the City, appointed as hereinafter provided, to make an audit of the books and papers of the official so removed from office. Upon the neglect or~~

~~failure to deliver all the books and papers to the City Manager within the time specified by this Charter, or to pay over all the monies to the City Manager with the time specified, the Alderman or Assistant Alderman, so removed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined no less than Twenty five Dollars (\$25.00) nor more than one Hundred Dollars (\$100.00) for each day that he fails to deliver the books and papers to the City Manager or to pay over all monies to the City Manager.~~

(a) Appointment. An Alderman or Assistant Alderman shall be recommended by the City, appointed by the Governor and confirmed by the Delaware State Senate. Once confirmed the Alderman or Assistant Alderman shall be sworn into office by the Mayor, and evidence of his or her appointment shall be recorded at the Recorder of Deeds in Sussex County.

(b) Appointment and Reappointment Nomination. When a vacancy occurs the Commissioners of Rehoboth Beach shall, by majority vote, submit one or more qualified candidates and the application(s) and supporting documentation to the Governor for consideration of appointment. Not less than thirty (30) days prior to the expiration date of an Alderman's or Assistant Alderman's term, the Commissioners of Rehoboth Beach shall, by majority vote, determine whether or not to recommend reappointment of the Alderman or Assistant Alderman for an additional term. The City shall submit a letter of recommendation to the Governor for consideration of reappointment, or alternatively, its written recommendation of one or more qualified candidates along with their applications and supporting documentation to the Governor for consideration of appointment.

(c) Term of Office. The Alderman and Assistant Alderman shall serve a two-year term and shall remain in office until either reappointed or a successor is duly qualified.

(d) Removal. An Alderman or Assistant Alderman may be censured or removed subject to the provisions of Article IV, Section 37 of the Delaware Constitution of 1897 and the Rules of the Court on the Judiciary. An Alderman or Assistant Alderman may also be replaced upon expiration of a term, following Senate confirmation of a new Alderman or Assistant Alderman.

If any Alderman or Assistant Alderman has been removed from office by Senate confirmation of a new nominee or by action of the Court on the Judiciary, he or she shall, within five (5) days of the Senate confirmation or Court on the Judiciary action, deliver to the Mayor all the books and papers belonging to the City, and shall within five (5) days pay over to the Treasurer all moneys in his or her hands. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or Assistant Alderman, the Mayor may require the auditor of the City to make an audit of the books and papers of the official who has been replaced. Upon the neglect or failure to deliver all the books and papers to the Mayor within the time specified by this Charter, or to pay over all of the moneys to the Treasurer within the time specified, the Alderman or Assistant Alderman, so replaced, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100) for each day that he or she fails to deliver the books and papers to the Mayor or to pay over all moneys to the Treasurer.

(e) Vacancy. In the absence of the Alderman, or when a vacancy occurs in the office of Alderman, the Assistant Alderman shall exercise all the powers, duties, and responsibilities of the Alderman as set forth in this Charter. When a vacancy occurs for an Alderman and there is no Assistant Alderman to act as Alderman, and the Delaware State Senate is recessed for more than six (6) weeks, the City may elect to have a retired Magistrate act as Alderman pending confirmation of a nominee with the Delaware State Senate. Such retired Magistrate must meet the appointment qualifications of 10 Del. C. § 9211(a) to serve in such capacity, and shall receive such compensation as may be established by the Commissioners of Rehoboth Beach. A retired Magistrate acting as Alderman shall have all powers, duties, and responsibilities of the Alderman as set forth in this Charter.

(f) Qualifications. Any person appointed to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, a United States citizen, of good character and reputation, shall reside within Sussex County, and shall not be a Commissioner or otherwise an officer or employee of the City of Rehoboth Beach.

(g) Oath of Office. Within fourteen (14) days of Senate confirmation the Alderman or Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of office honestly, faithfully, diligently, and to uphold

and enforce the Charter of the City of Rehoboth Beach and ordinances duly enacted by the Commissioners of Rehoboth Beach.

(h) Duties. It shall be the duty of the Alderman and Assistant Alderman to adjudicate actions brought under any ordinances legally enacted or established by the government of the City and to carry into effect all legally binding orders and directions of the Commissioners of Rehoboth Beach made pursuant to any law of this State or its Constitution. In carrying out the duties of the office, an Alderman or Assistant Alderman shall comply with the ethical responsibilities required of Aldermen in this State and shall operate the court in accordance with the Criminal Rules of Procedure for the Alderman and Mayor Courts of the State of Delaware.

(i) Compensation. The compensation of the Alderman and Assistant Alderman shall be fixed by the Commissioners of Rehoboth Beach and approved in conjunction with the Commissioners' adoption of the City operating budget. If no change is proposed and approved by the Commissioners of Rehoboth Beach, the previously established compensation rate shall continue in effect until revised by a majority vote of the Commissioners of Rehoboth Beach. Such compensation shall not be contingent upon or related to the amount of any civil or penal fines imposed or collected through the Alderman Court and shall not be reduced during the term of office.

(j) Alderman's Docket. The Commissioners of Rehoboth Beach shall procure suitable records for the use of the Alderman and the Assistant Alderman. Such records shall be known as the "Alderman's Docket". The Alderman and Assistant Alderman shall record all official acts and proceedings in the Alderman's Docket. All criminal matters, but not civil matters, shall be entered into the Delaware Criminal Justice Information System (DELJIS) as required by law.

(k) Jurisdiction. The Alderman and Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace, offenses and violations of any civil or criminal ordinance of the City committed within the corporate limits of the City of Rehoboth Beach. As to such offenses or violations over which they are given jurisdiction by this Charter or by any other law of the State of Delaware, the Alderman and Assistant Alderman shall be authorized and empowered to hold for bail, set bail, impose fines, or imprison, for each offense or violation in accordance with the penalties provided by this Charter, by any City Ordinance enacted hereunder, or as provided by any law of the State of Delaware; provided, however, that the maximum fine which the Alderman or Assistant Alderman may impose shall never exceed the limits established by this Charter.

(l) Civil and Criminal Penalties; Costs. Neither the Alderman or the Assistant Alderman shall impose any penalty in excess of the penalties established in this Charter for adjudicated offenses exclusive of costs nor imprison any offender for more than thirty (30) days, or both, except as otherwise specifically provided in this Charter or by state statute; but the Alderman and Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by ordinance by the Commissioners of Rehoboth Beach.

(m) Monthly Report to Commissioners. The Alderman and Assistant Alderman shall prepare and submit a written monthly report to the Commissioners of Rehoboth Beach reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the City all such fines and penalties at such times as the Commissioners of Rehoboth Beach shall direct. Neither the Commissioners of Rehoboth Beach nor the Mayor may establish or communicate an expected revenue budget for the Alderman Court apart from the adoption of the annual City Budget.

(n) Alderman Court Facilities and Staff. The City of Rehoboth Beach shall provide adequate and appropriate facilities and staff to facilitate the independent judicial operations of the Alderman Court. Facilities shall be separate from conflicting city operations, including, but not limited to, police agency functions. The city may house the Alderman Court in a common municipal building, so long as the Alderman's Court is provided space physically separate from other town functions and is further situated in such a manner to foster public confidence in the independence of the Court. Likewise, staff assigned to the Court shall not be shared with conflicting city government operations.