

CHAPTER 267  
FORMERLY  
HOUSE BILL NO. 307

AN ACT TO REINCORPORATE THE CHARTER OF THE CITY OF NEW CASTLE, CHAPTER 216, VOLUME 27, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT AMENDING, REVISING AND CONSOLIDATING THE CHARTER OF THE CITY OF NEW CASTLE".

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 New Castle, Chapter 216, Volume 27, Laws of Delaware, as amended, by substituting in its entirety, as shown by underlining as follows:

CHARTER OF THE CITY OF NEW CASTLE

- Section 1. City Boundaries
- Section 2. Establishment of Municipal Corporation
- Section 3. Annexation
- Section 4. Officers, Qualifications and Salaries
- Section 5. Time of Elections
- Section 6. Election Procedures
- Section 7. Taking Office
- Section 8. Continuity of Office
- Section 9. Vacancies
- Section 10. Fraudulent Voting/Penalties
- Section 11. Municipal Power
- Section 12. Duties of Mayor
- Section 13. Meetings and Procedures of Council
- Section 14. Powers of Council
- Section 15. Tax Remission
- Section 16. Exhibitions within the City
- Section 17. Road Tax
- Section 18. Budget
- Section 19. Property Assessment Procedure
- Section 20. Borrowing for Current Expenses
- Section 21. Borrowing for Capital Expenses
- Section 22. Sinking Fund
- Section 23. Survival of Power and Validation
- Section 24. Severability Clause
- Section 25. Construction of Provision of Charter
- Section 26. Public Act

Section 1. City Boundaries

The limits and boundaries of the City of New Castle shall be as previously fixed and established or hereafter altered according to law and shall be marked and defined according to maps and plots now of record or hereafter recorded in the Office of the Recorder of Deeds in and for New Castle County pursuant to lawful annexation proceedings. Such maps and plots, when so made and approved by the City Council of the City of New Castle, and signed by the President of Council and City Clerk, and sealed with the City seal and when recorded in the Office of the Recorder of Deeds, in and for New Castle County, Delaware shall be deemed to be the true and correct maps and plots of the City and of all the streets, boundaries, lanes and alleys thereof, and the same, or the record thereof, or a duly certified copy of said record, shall be evidenced in all courts of law and equity in the State of Delaware.

Section 2. Establishment of Municipal Corporation

The City of New Castle, and the inhabitants thereof, shall be and continue as a municipal corporation by the style and name of "The City of New Castle", and by that style and name it shall have perpetual succession and is hereby made able and capable in law to have, take, purchase, receive, possess, enjoy and retain to it and its successors, lands,

tenements, hereditaments, goods, chattels and effects of whatever kind, nature and quality, and the same to sell, grant, pledge, hypothecate, demise, alien or dispose of, to sue, be sued, plead, and be impleaded, defend, and to be defended in all courts of law and equity, or any other place whatsoever, and also to have, make and use a common seal, and the same to break, later or renew at its pleasure, and generally shall have all the privileges and franchises incident to a corporation or body politic.

Section 3. Annexation

Consistent with Chapter 1, Title 22 of the Delaware Code, the City Council shall have the power to annex any contiguous territory, and to extend and apply thereto all laws, ordinances, resolutions, rules and regulations in force within the State of Delaware and the City, so far as the same may be legally applicable.

Section 4. Officers, Qualifications and Salaries

The officers of the municipal corporation shall consist of a Mayor, a Council to be composed of four Members and a President of Council who shall be ex-officio a member and presiding officer of the Council, a Treasurer, and City Clerk. No person shall be eligible to any of the above offices who is not a citizen of the State and a resident of the City. The Mayor and the President and Members of Council must have resided in the City for at least two (2) years before their election and at the time of their election be qualified voters of the City. The Council may, from time to time, by resolution appoint a City Solicitor who shall be a licensed member in good standing of the Bar of the Supreme Court of the State of Delaware with a minimum of five (5) years experience before the Delaware Bar. The Council may also, from time to time, by resolution appoint a City Engineer who shall be duly licensed by The State of Delaware as a professional engineer in good standing with a minimum of five (5) years experience as a licensed professional engineer in the State of Delaware. The Council by ordinance may provide for such other officers as may be deemed necessary.

It shall be the duty of each Council member to propose necessary and appropriate legislation and resolutions for Council's consideration; to serve on committees designated by Council; to attend public hearings on proposed legislation; to be available and responsive to constituents, and to perform all other duties as provided in the Charter and by Delaware law.

The Council shall determine the annual salary of the Mayor, the President of Council and Council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the Mayor, the President of Council and the Council members elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. The Mayor, the President of Council and members of Council shall receive reimbursement for actual time and necessary expenses as supported by receipts incurred when on official business.

The salaries, fees, or compensation of appointed officers shall be fixed by resolution of Council.

Section 5. Time of Elections

Election of the Mayor, the President of Council and other Council members shall occur at biannual elections on the second Saturday of April (except when such date falls on Easter week-end, then on the third Saturday of April). Commencing with the election to be held in calendar year 2013 the terms of Mayor, the President of Council and other Council members shall be staggered. At the election to be held in calendar year 2013, the Mayor and two Council members shall be elected for a two (2) year term while the President of Council and the remaining two (2) Council members shall be elected to a four (4) year term. The two successful Council member candidates receiving the largest number of votes shall be elected to four (4) year term seats on Council. The two successful Council member candidates receiving the least number of votes shall be elected to two (2) year seats on Council. Thereafter, in all odd numbered years two Council members and either the Mayor or the President of Council (depending on whose term has expired) shall be elected for four (4) year terms. Each officer shall hold office until the biannual election when his or her term expires and until his or her successor has been elected and qualified.

Commencing in the year 2013, the Treasurer and the City Clerk shall be elected every four (4) years by ballot on the second Saturday of April (except when such date falls on Easter week-end, then on the third Saturday of April). The Treasurer and City Clerk shall continue in office for a term of four (4) years or until their successors are legally qualified.

Section 6. Election Procedures

(a) The responsibility for conducting all municipal elections in the City of New Castle shall be vested with the Board of Elections for the City of New Castle. Each member of City Council shall appoint one (1) qualified elector, who is also a resident of the City of New Castle, to serve as a member of said Board. The term of all individuals so appointed shall be four (4) years, commencing the day on which the appointment is made.

(b) Should any member of the Board of Elections die or become unable to perform the required duties, at any time, a successor shall be appointed to complete the remainder of the term in an open meeting of the City Council, by the Council Member, or their successor, who made the original appointment.

(c) The Board of Elections for the City of New Castle shall have, subject to the formal approval by Ordinance, by majority vote, of the City Council, the power, authority and responsibility to establish or to amend all rules or regulations designed to:

(1) Register Voters;

(2) Conduct Elections;

(3) In the month of July in years preceding an election years, meet and elect from the members of the Board, a President and a Secretary; and

(4) To provide for all such other matters related to the municipal election processes of the City of New Castle including compliance with all applicable State election laws.

(d) Any member of the Board of Elections or any election officer appointed by them who is found guilty, by majority vote of the City Council, of either (1) or (2) of the following shall immediately forfeit their position or employment:

(1) Directly or indirectly seek to use their authority or official influence to control or modify the political action of another person.

(2) Actively participate in the political activities of any individual or campaign.

(e) The pay for all members of the Board of Elections, all election officers and all election related materials, including polling place rental, shall be fixed by City Council and paid out of City funds.

(f) Any person desiring to become a candidate for the office of Mayor, the President of Council, a member of Council, the Treasurer or City Clerk, shall file with the City his or her name, place of residence, and date, designating the office for which he or she seeks to become a candidate, no later than 5:00 p.m. local time, of the last Friday in the month of February in the year of the election. Any candidate desiring to withdraw his or her candidacy shall do so by notifying the City in writing no later than March 20<sup>th</sup> in the year of the election or should March 20<sup>th</sup> fall on a weekend or federal holiday, the next business day thereafter.

(g) At any municipal election of the City of New Castle all individuals who shall have attained the age of eighteen (18) at the time of the election who shall have been a resident of the City of New Castle for thirty (30) days preceding said election shall be entitled to vote; provided, however, that said person is otherwise qualified to register to vote and has registered to vote as required by the Election Laws of the State of Delaware (15 Del. C. Chapter 75), five (5) days prior to said election. The Board of Elections shall decide on the legality of the votes offered.

(h) The Board of Elections shall determine the place(s) for holding said election, subject to the approval of City Council and shall give notice of the time and places of holding said election by posting notice thereof in accordance with applicable Delaware State election laws governing municipal elections. The Board of Elections shall appoint sufficient election officers and an election Inspector pursuant to 15 Del. C. §7556 to assist in overseeing and conducting elections.

(i) On the day of the election, all polling places will open at 7:00 a.m., local time and close at 7:00 p.m. local time, for the purpose of voting.

(j) Upon the closing of the polls as aforesaid, the Board of Elections shall count all the votes cast, publicly read the results and certify said results to the President and members of City Council.

(k) For the purpose of certifying the results to the Board of Elections the election officers shall fill out four (4) certificates of election, all of which are to be verified and signed by all of the election officers present at the closing of the polls. The Inspector and one (1) election official shall each retain, for thirty (30) days following the day of election, one (1) copy of the certificate of election. The third (3rd) copy shall be given to the President or the

designee of the Board of Elections at the closing of the polling place and the fourth (4<sup>th</sup>) copy shall be given to the President of City Council, at the closing of the polling place.

(l) On the Monday evening following any such election, the City Council shall meet at 8:00 p.m., local time, for the purpose of canvassing said election. The Chair of the Board of Elections or his/her designee shall appear before City Council at that time and present the certificate of election retained by them. The City Council shall canvass the vote and after ascertaining which candidates have received the greatest number of votes and have been thereby elected to the various offices, shall fill out, sign and deliver certificates of election to all of the successful candidates.

(m) In the event of a tie vote for election to any office, the outgoing City Council by a majority vote of the members present shall resolve the tie. In the event of a tie vote of the members of Council present the Mayor shall cast the deciding vote.

#### Section 7. Taking Office

As soon as may be conveniently be done after the result of said election shall have been ascertained by the City Council as aforesaid, but no sooner than the seventh (7<sup>th</sup>) day following said election, it shall be the duty of the Mayor-elect, to take and subscribe, before some Justice of the Peace in the County of New Castle or other sitting judge or justice of any court of the State of Delaware, an oath or affirmation that he or she will support the Constitution of the United States and the Constitution of the State of Delaware and that he or she will perform the duties of his or her office with fidelity, and thereupon he or she shall enter upon the duties of his or her office. The Mayor shall administer a like oath or affirmation to each of the persons who shall have been elected as aforesaid, as President of Council, member of Council, Treasurer and City Clerk, upon the taking of which oath or affirmation and the giving of such bond as is required by this Act, they shall enter upon the duties of their offices, respectively.

The City may cause a bond to the municipal corporation to be purchased which shall cover the Treasurer in such amount as shall be determine by the Council, and with surety, to be approved by the Council, conditioned for the faithful performance of the duties of his or her office. The Treasurer shall, from time to time, prepare and present to Council such reports as may be required by Council. The Council may, by ordinance, or otherwise, require such other officers of the City to give bond in such manner and with such conditions as it may deem proper.

#### Section 8. Continuity of Office

The Mayor, President of Council, members of Council, Treasurer and City Clerk shall hold their respective offices until their successors have been duly elected and qualified as hereinabove provided, and the failure to hold an election on the day fixed or the omission to execute any authority conferred by this Act shall not dissolve the municipal corporation, but the authority of each officer shall continue until a new election can be legally held.

#### Section 9. Vacancies

In case of the death, resignation, refusal to act, disability, removal, or inability to be bonded under the provisions of this charter, of any person elected as aforesaid to the office of Mayor, President of Council, member of Council, City Treasurer, or City Clerk, the vacancy thus occasioned shall be filled by the Council, who shall elect some suitable person, not of their own body, having the qualifications herein provided for, to fill said vacancy until the next election, or until a successor shall have been duly qualified.

In the event the Mayor, President of Council, any Council member, the City Treasurer or the City Clerk shall be convicted of a non-appealable felony, such conviction shall automatically result in his or her immediate removal from office. In the event the President of Council or any Council member shall fail to attend and be counted toward a quorum at more that one-third of Council's regular monthly meetings in any consecutive twelve (12) month period, then the remaining Council members may, in their discretion, following notice and an opportunity to be heard, adopt a resolution removing him or her from office and declaring his or her seat vacant, said vacant seat to be filled as provided in this Section.

#### Section 10. Fraudulent Voting/Penalties

Any inspector, judge or clerk of election, at any election held under this Charter, who shall knowingly and willfully take and receive or advise and consent to the taking and receiving of the vote of any person not entitled to vote at any such election, or shall knowingly and willfully reject or advise and concur in rejecting the vote of any person entitled to vote at such election, or shall use any fraud, falsehood, or deceit in doing or performing any of the

duties, matters or things required of him or her, or shall refuse or willfully neglect to perform any of the said duties, matters or things, shall, for every such offense, upon conviction thereof in the Superior Court of State of Delaware, in and for New Castle County, forfeit and pay to the State a fine of Five Hundred Dollars for the use of the City of New Castle; and any person not entitled to vote, who shall vote or offer to vote at any such election, shall, upon conviction as aforesaid, forfeit and pay to the State a fine of One Thousand Dollars for the use of the City of New Castle.

#### Section 11. Municipal Power

The Council of the City of New Castle, and its successors in office, shall be, and hereby is, vested with all the legislative powers of the municipal corporation, and shall have power to make and use a corporate seal and to change, alter and renew same. The said Council and its successors shall be able and capable:

(a) To sue and be sued, plead and be impleaded in all Courts in this State by the corporate name of "The Council of the City of New Castle;" and may have, take, purchase, possess, enjoy and retain, by lawful means, to it and its successors, within said City, or beyond the limits thereof, lands, tenements and hereditaments, goods, chattels and effects of whatsoever kind, nature and quality, necessary for municipal purposes; and the same to lien, sell, grant, demise, align or dispose of at pleasure;

(b) To receive devises, bequests, gifts and donations of all kinds of property within said City and beyond the limits thereof, for its use and benefit, or in trust for charitable, benevolent, educational, or other public purposes, and to do all things necessary to carry out the purposes of such devises, bequests, gifts and donations;

(c) To acquire or erect public buildings for municipal purposes, and to regulate and control the management of the same;

(d) To lay out, establish and maintain or vacate public parks and squares;

(e) To lay out, open, regulate, grade, extend, widen, improve or vacate streets and alleys, crossings and other highways;

(f) To construct, maintain or vacate sewers, drains, gutters and other works for the disposition of sewage and drainage of said City, the jurisdiction and control over the squares, streets and alleys, sidewalks, crossings and highways to extend from building line to building line;

(g) To supply said City and its inhabitants with water, and wastewater treatment facilities, and to protect the water to be used from contamination;

(h) To provide for the acquisition or erection and maintenance of such works as may be necessary or convenient for supplying water, and to fix, alter, regulate and control the price and use of, water and wastewater treatment so supplied;

(i) To provide for lighting the streets and all public places in said City, and for supplying the inhabitants thereof with electricity;

(j) To provide for the acquisition or erection and maintenance of such works as may be necessary or convenient for supplying such electricity, and to fix, alter, regulate and control the price and use of electricity so supplied;

(k) To grant to persons or corporations in such manner and upon such terms and conditions as it may prescribe, franchises and privileges to locate, construct, extend and operate any enterprise, in, upon, or through any public park, square, street or other highway, provided that such grant shall be subject to repeal or revocation for the abuse, misuse or nonuse of the franchises and privileges thereunder granted, and provided further that no ordinance granting any such franchise or privilege shall be passed unless it shall receive the affirmative votes of two-thirds of all the members of Council;

(l) To regulate and control the storage, within said Town, of explosives, oils, compounds, or any other dangerously combustible matter;

(m) To grant licenses or permits for any lawful purpose, and to define the purposes for which licenses or permits shall be required;

(n) To make and enforce sanitary regulations;

(o) To define, abate and remove nuisances, injurious to the public health or dangerous to the inhabitants of said City, and to prevent the introduction of infectious or contagious diseases, for which said purpose its jurisdiction shall extend to any point within one mile beyond the limits of said City;

(p) To regulate and control the erection of buildings within said City, and to require licenses or permits to be taken out before the erection or repair of any building;

(q) To prohibit the going at large of any animal, except under regulations prescribed by it;

(r) To lay and collect fines on the owner or harbinger of animal found going at large in violation of such regulations; and to provide for the registration of dogs in said City;

(s) To make and enforce within said City such fire, police and other regulations as may be deemed expedient to protect persons and property, maintain the public peace, prevent crimes and promote the public morals;

(t) To establish, direct and administer police and fire departments and to appoint such police, fire prevention and other suitable personnel to enforce the City's laws, ordinances and regulations and the laws of the State of Delaware as same may be amended from time to time, and to otherwise preserve the peace within the limits of the City, said police personnel having full right to pursue and arrest beyond the limits of the City any violator of the laws or ordinances of the City;

(u) To borrow money for municipal purposes on the credit of the corporation and to issue bonds therefore in the manner and under the restrictions hereinafter provided;

(v) To provide for the payment of the legitimate expenses of the corporation, and for the annual payment, through the medium of a reserve fund, or otherwise, of a portion of its bonded indebtedness, now existing, or hereafter to be created;

(w) To prescribe the extent of steps, porches, cellar doors and other outlets to buildings;

(x) To regulate the construction and repair of chimneys, and to regulate party walls;

(y) To prescribe the violations of ordinances by fine or imprisonment, as determined by Council by ordinance.

(z) To make general assessments of property in said City, and assess and collect taxes and other rates and charges thereon, for municipal uses and purposes; and to make and collect special assessments of said property for the costs of any local or general improvement and to enforce the payment of such taxes and other rates and charges and special assessments; and

(aa) To exercise all municipal powers necessary to the proper administration of the municipal government, and for the wellbeing of the inhabitants of said City, whether said powers be expressly enumerated herein or not.

#### Section 12. Duties of Mayor

The Mayor of the City shall be the executive officer thereof, and is hereby constituted a conservator of the peace within the said City, and is authorized, empowered and required to exercise within said City, all the authority which justices of the peace in and for the County of New Castle may exercise under the laws of this State, and he or she shall further be invested with authority in all lawful cases of commitment to commit persons guilty of a breach of the peace to the appropriate correctional facility. And it shall be the duty of the Mayor to take care to have the laws and ordinances of said City faithfully executed, and for that purpose shall have the power and authority to arrest and hold to bail all persons accused of a breach of said ordinances, and fine and imprison all persons found guilty of a breach of said ordinances. Such power and authority shall be exercised upon complaint duly made under oath and hearing of the party accused, and for that purpose, the Mayor shall have power to issue the ordinary process for the arrest of parties and for the attendance of witnesses, and the power to punish for contempt now possessed by justices of the peace. Provided, that he shall not have jurisdiction in any civil matter other than to carry out the provisions of this charter, or the regulations and ordinances adopted for the government of said City by the powers herein authorized to adopt the same, and that all fines imposed and collected, shall be paid to the Treasurer of the City.

The Mayor shall keep a record of all judicial proceedings had before him or her, which record shall be the property of the City and subject to the control of the Council. Process issued by the Mayor shall be similar in form to that prescribed in like cases before justices of the peace and shall run throughout New Castle County, and shall be directed to the Sheriff or to any constable of said County, or to any police constable of said City. The costs of any proceedings before the Mayor shall be the same as are provided by law in like proceedings before justices of the peace, and shall be collected from the defendant in cases of conviction in addition to any fine imposed or shall be paid by him or her before his or her discharge from imprisonment, but the said costs may be remitted in the discretion

of the Mayor. In case the charge is for the violation of a City ordinance and the party so charged is acquitted, the costs shall be paid by the City.

In the absence of the Mayor to perform any duty under this Charter, the President of Council shall serve during the absence of the Mayor from the City or while he or she shall be prevented by sickness or otherwise from performing the duties of his office, and the President of Council shall be invested with all the powers and authority hereby conferred upon the Mayor, to exercise the same during such absence or sickness until notified in writing by the Mayor that he or she is ready to assume again the duties of office.

#### Section 13. Meetings and Procedures of Council

All the legislative powers of the corporation shall be vested in the Council. Council may adopt rules for the government of their own body and the transaction of business. The President of Council shall be the presiding officer and a member of the Council and shall have the authority to designate another member of Council to preside at any meeting of Council in his absence. The Council shall meet for the transaction of business no less frequently than monthly at such times as the said Council may determine, and a majority of the whole number of members shall constitute a quorum to do business. The President of Council and other Council members may participate in Council meetings via conference telephone or similar communications equipment by means of which all persons attending the meeting can hear each other and such participation shall constitute presence in person at such meeting. All meetings of the Council shall be public, except meetings for the transaction of executive business in accordance with the Delaware Freedom of Information Act, 29 Del. C. §§10001 et seq. as same may be amended from time to time. No ordinance shall pass the Council unless the same shall have the concurrence of a majority of all the members of the Council and shall have had at least one reading at a previous meeting thereof. No ordinance shall be repealed other than by an ordinance duly passed. On the final passage of an ordinance the vote shall be taken by yeas and nays and the names of the persons voting for and against the same shall be entered on the minutes. The yeas and nays on any questions shall at the desire of any Council member be entered on the minutes. No ordinance authorizing the borrowing of money and the issuing of bonds therefor shall pass the Council without the concurrence of at least two-thirds of all the members. Every ordinance after it shall have passed the Council, shall be signed by the President of Council and the Clerk of Council in authentication of its passage, and on the next day thereafter presented to the Mayor. If the Mayor approves it, he or she shall sign it; but if not, the Mayor shall return it with written objections to the Council who shall enter the objections on the minutes and proceed to reconsider it. If two-thirds of all the members of the Council shall then agree to pass the same, it shall become an ordinance of the City; otherwise it shall be inoperative. Every ordinance that shall not be returned to the Council by the Mayor within five days after receipt, shall become an ordinance of the City in like manner as if the Mayor had signed it. All ordinances of the City shall be preserved by the City Clerk and recorded at length in an ordinance book.

#### Section 14. Powers of Council

The streets, sidewalks, lanes, alleys, pavements, curbs, gutters, light, power, sewer, and water, in the City of New Castle shall be under the supervision, management and control of the Council.

Whenever Council shall deem it expedient and needful for the public good and convenience that any sidewalk or street or portion thereof within said City should be paved or repaved or that any curbing should be laid or reset or repaired, the Council shall have the power to cause the sidewalk or street or portion thereof to be paved or repaved, repaired or re-laid, and to cause the curbing or gutters to be laid, reset, or repaired with such material or materials and according to such specifications as it shall determine. Council may, by ordinance, require that such work be undertaken and/or paid for by the owners of adjacent property and may impose a lien on such property owners if such costs are not timely paid. Whenever Council shall deem it expedient and needful for the public health and welfare that any sewers, mains and pipes be laid or installed on any property or on any street or alley in said City or any public road adjoining or extending to said City, the said Council shall have the power and it is hereby authorized to proceed with the laying and installing of said sewers, mains and pipes in the manner hereinbefore provided pertaining to the improvements and repairs to sidewalks, streets, curbs and gutters, and to cause same to be done and costs recovered as therein provided. In addition, whenever Council shall so determine, it may in like manner cause any property in the City to be connected with the water and sewer mains and to recover the costs

therefore after like notice and in like manner as hereinbefore provided for the improvements and repairs to streets, sidewalks, curbs and gutters.

Section 15. Tax Remission

If any person or persons or entity shall hereafter set up a business for manufacturing, industrial, office or other commercial purposes within the limits of said City and the Council shall determine that such business will furnish continuous employment for a sufficient number of persons to materially benefit the City of New Castle generally, the Council shall have power to remit, in whole or in part, the levying of taxes imposed thereon for City purposes for a period not exceeding ten years; but such remission of taxes shall remain in the discretion of Council and may be conditioned in the discretion of Council.

Section 16. Exhibitions within the City

No circus, menagerie, theatrical or minstrel company, or exhibition of any kind shall be exhibited, or bills posted, or street parade had therefore within the limits of said City; nor shall any person or persons, or corporation, open or set up, or attempt to open or set up therein, any temporary or transient business, for the purpose of selling or offering for sale by auction or otherwise, goods, wares, or merchandise; or peddle, take orders for the delivery of goods, wares and merchandise within the limits of said City, without first having obtained permission of Council, which shall have power to issue license or permit therefore, the charge for which shall remain in its discretion. For purposes of this Section, the phrase "temporary or transient business" shall be defined as set forth in 6 Del. C. §4702 as same may be amended from time to time, and, in addition, shall not include any individual business that operates at a permanent location if all of the businesses which operate at the location, taken together, would not be considered a temporary or transient business.

Section 17. Road Tax

No road tax shall be levied upon any of the property within the limits of said City by any other taxing authority within the State of Delaware than the Council of said City, which shall levy all taxes necessary for the maintenance of the streets, lanes and alleys of said City.

Section 18. Budget

The Council shall, on or before the first Monday in each July, meet and ascertain, as near as may be, the amount necessary to cover the net expenses of the government of said City for the current fiscal year, including, but not limited to, the maintenance of streets, police assessment, collection of taxes and cost of trash collection; and shall make up a budget containing the items and estimated amounts necessary to cover each and every branch and item of said City government. And immediately after the assessment and valuation shall have been finally settled and adjusted under the provisions of this Act, the said Council shall proceed to levy a tax on the real property, thus valued and assessed, in just and equal portions and rates, sufficient to cover the aggregate of said budget.

Section 19. Property Assessment Procedure

Section 19.1 Adoption of New Castle County Assessment

The City shall adopt the assessment set from time to time by New Castle County for all property located within the corporate limits of the City in lieu of making its own independent valuation and assessment of such property. The assessment of values established by New Castle County shall be conclusive for purposes of levying City taxes and the City shall have no authority to hear appeals regarding same.

Section 19.2 Payment of Taxes

All taxes shall be paid to the City Clerk or City Treasurer, or their designated representatives, at the City Hall during regular business hours. All taxes shall be due and payable on the first day of July in the year in which they are assessed and laid and shall be paid no later than September 30<sup>th</sup> (or on the next banking day, if September 30<sup>th</sup> is a weekend or holiday) of each year. The Council may provide for early payment discounts in its discretion. On all taxes paid after September 30<sup>th</sup> there shall be paid an accrued penalty of one and one-half percent (1.5%) per month or fraction thereof for each month unpaid after due date. All tax bills shall be sent out on or before August 1 of each year. Appropriate legal action shall be taken against all delinquent taxables whose taxes have become delinquent as determined by Council.

Section 19.3 Exemptions from Payment of Taxes

The Mayor and Council may by ordinance establish an annual full or partial exemption from payment of City taxes for all City residents who are at least 65 years of age or older at the time the fiscal year commences which exemption may be subject to conditions as Council may require.

Section 19.4 Collection of Delinquent Taxes – Generally

(a) The provisions of Title 25, Delaware Code Annotated, Chapter 29, as amended, with reference to tax liens shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter. In addition, liens on real property shall arise in favor of the City whenever the following charges are imposed by the City or the City’s Municipal Services Commission relating to any parcel of real estate:

(1) Service charges for maintenance or use of water and electrical systems, including penalty and interest thereon;

(2) Charges for the costs of razing or demolition of buildings done through public expenditure;

(3) Charges for duly authorized improvements or maintenance to the exteriors of buildings or property done through public expenditure;

(4) Assessments for the installation of electrical lines, water mains, sidewalks and curbing, including penalty and interest thereon;

(5) Fees imposed by law or ordinance of the City for registration of ownership of any vacant buildings located within the political subdivision, the imposition of which fees is final and non-appealable; and

(6) Charges for the costs of removing weeds, grasses, refuse, rubbish, trash or other waste material done through public expenditure.

(b) Debt Action. The City may recover the amount of the tax or other charge due in an action of debt against the delinquent taxpayer or property owner in any court of competent jurisdiction and it shall be sufficient to set forth that the action is to recover a specified sum of money, being a tax or other charge assessed against property owned by defendant, in whole or in part, together with such description of the property as will be sufficient to identify the same and the year for which the taxes were levied. The right of appeal shall be the same as in other civil actions.

If a judgment be rendered in favor of the City, there shall be an allowance for the additional expense in attending to the suit, including counsel fees. The amount of accrued interest, which shall be taxed by the court in the costs. Thereupon execution shall issue against the real estate of defendant. No execution against the real estate shall issue except out of the Superior Court. Where such judgment is recovery from a lower court of competent jurisdiction and it is the desire of the City to proceed against the real estate of the defendant, the City shall take a transcript of the judgment from such lower court and cause the same to be entered in the Superior Court in and for New Castle County. When such transcripts are entered, the subsequent proceedings shall be the same as upon other judgments. The lien of the judgment, as aforesaid, shall be deemed to relate back and take effect from the date of the assessment roll.

(c) In addition to all existing methods and authority for collection of taxes or other charges due to the City or its Municipal Services Corporation, the City may file or cause to be filed a praecipe in the Office of the Prothonotary of the Superior Court in and for New Castle County.

The praecipe shall contain the name of the person against whom the taxes or other charges sought to be collected were assessed, a copy of the bill or bills showing the amount of taxes or charges due, and the property against which the taxes or charges were assessed. The description of the property, as the same appears upon the assessment rolls of the City, shall be sufficient identification and description of the property. The City shall also cause notice to be given to the person against whom the taxes or charges sought to be collected were assessed by mailing certified mail (return receipt requested) to the said person at the best available address for such person a copy of the praecipe with instructions that, unless payment is made or an appearance otherwise entered on behalf of said person within thirty (30) days of mailing, judgment shall be entered against the property. When a copy of the praecipe with instruction has been so mailed, the City shall file or cause to be filed an affidavit of mailing in the Office of the Prothonotary. The mailing of the praecipe with instructions and the filing of the affidavit shall be deemed to be a complete discharge of the City’s duty to give notice to the person against whom taxes or charges are

sought to be collected, whether or not the receipt of the registered mailing is returned. If no payment or appearance is thereafter made within thirty (30) days of mailing, the Prothonotary shall make a record of the same on a special judgment docket of the Superior Court, against the property mentioned or described in the praecipe, which record shall consist of the following:

- (1) The name of the person in whose name the assessment was made;
- (2) The description of the property as the same shall appear upon the assessment rolls;
- (3) The year or years for which the taxes are due and payable;
- (4) The date of filing of such praecipe; and
- (5) The amount of the judgment, the same being the amount set forth in the praecipe.

Such judgment shall be indexed in the appropriate judgment docket.

Thereafter upon a praecipe for monition filed in the Office of the Prothonotary by the City, a monition shall be issued by the Prothonotary to the Sheriff of New Castle County, which monition shall briefly state the amount of the judgment for the taxes and charges due and the years thereof, together with a brief description of the property upon which the taxes and charges are a lien. A description of such property as same shall appear upon the assessment rolls so prepared shall be a sufficient description. The monition shall be in substantially the following form:

To all persons having or claiming to have any title, interest or lien upon the within described premises, take warning that unless the judgment for the taxes or assessment stated herein is paid within twenty (20) days after the date hereof, or within such period of twenty (20) days evidence of the payment of taxes or assessment herein claimed is filed in the office of the Prothonotary, which evidence shall be in the form of a receipted tax or assessment bill or duplicate thereof, bearing date prior to the filing of the lien in the Office of the Prothonotary for New Castle County, the City of New Castle may proceed to sell the property herein mentioned or described for the purpose of collecting the judgment for the taxes or assessments herein stated.

<u>Name of person</u>	<u>Description</u>	<u>Year</u>	<u>Amount</u>
<u>In whose name</u>	<u>of</u>	<u>or</u>	<u>of</u>
<u>Property is</u>	<u>Property</u>	<u>Years</u>	<u>Judgment</u>
<u>Assessed</u>			

The monition, or a copy thereof, shall be posted by the Sheriff upon some prominent place or part of the property against which the judgment for the taxes or assessment is a lien, and the Sheriff shall make due and proper return of his proceedings under the monition to the Prothonotary, within ten (10) days after the posting of the monition.

Alias or pluries monition may issue upon like praecipe. The posting of the notice as herein required shall constitute notice to the owner or owners and all persons having any interest in the property.

At any time after the expiration of twenty (20) days next following the return of the Sheriff upon the monition, unless the judgment together with costs has been paid prior to the expiration of the twenty (20) days, evidence of the payment of such taxes evidenced by a receipted tax or assessment bill or a duplicate thereof bearing date therefor prior to the filing of the lien for record in the Office of the Prothonotary, then upon application in writing by the City of New Castle, a writ of venditioni exponas shall issue out of the Office of the Prothonotary directed to the Sheriff commanding the Sheriff to sell the property mentioned or described in the writ and make due return of his proceedings thereunder in the same manner as is now applicable with respect to similar writs of venditioni exponas issued out of the Superior Court. The property shall be described in the writ under the description thereof as it appears on the assessment rolls and by metes and bounds where obtainable, but nothing herein contained shall be construed to invalidate a writ or a sale pursuant thereto containing only the description as it appears on the assessment rolls or a writ bearing only a description by metes and bounds. The writ shall be substantially in the following form:

NEW CASTLE COUNTY, SS  
The State of Delaware  
TO THE SHERIFF OF NEW CASTLE COUNTY,  
GREETINGS:

WHEREAS, by a Monition issued out of the Superior Court dated at Wilmington the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, IT WAS COMMANDED, that you should post the said Monition or copy thereof upon the real estate therein mentioned and described, and make a return to the said Superior Court within ten days after said posting.

That on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, you returned that a copy of the said Monition was posted on the real estate therein mentioned and described on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

We therefore now command you to expose to public sale, the real estate mentioned and described in said Monition as follows:

(description)

... and that you should cause to be made as well a certain debt of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) lawful money of the United States, which to the said City of New Castle is due and owing, as also the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) lawful money as aforesaid for its costs, which it has sustained by the detaining of that debt, whereof the said \_\_\_\_\_ was convicted as it appears of record and against which said property it is a lien;

And have you that money before the Judges of our Superior Court at Wilmington, on Monday the \_\_\_\_\_ day of \_\_\_\_\_, next, to render to the said City of New Castle as aforesaid, for its debt and costs as aforesaid, and this writ:

Witnesseth, the Honorable \_\_\_\_\_, at Wilmington \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_.

\_\_\_\_\_  
Prothonotary

Any real estate or interest therein sold under the provisions of this Charter shall vest in the purchaser all the right, title and interest of persons in whose name the property was assessed, and/or all right, title and interest of the person or persons who are the owners thereof, and likewise freed and discharged from any liens and encumbrances dower or curtesy or statutory right, in the nature of a dower of curtesy, whether absolute or inchoate, in or to the real estate.

If the owner of the property and/or his legal representatives fail to redeem the property as provided in this Charter, the purchaser of the property or his legal representatives, successors or assigns may present a petition to the Superior Court setting forth the appropriate facts in conformity with this Charter and pray that the Superior Court make an order directing the Sheriff, then in office, to execute, acknowledge and deliver a deed conveying the title to the property to the petitioner; and thereupon the Superior Court shall have the power, after a hearing upon the petition, to issue an order directing the Sheriff to execute, acknowledge and deliver a deed as prayed for in the petition. A description of the property as the same shall appear upon the assessment rolls, or a description by metes and bounds where obtainable shall be a sufficient description in any such deed.

The owner of any such real estate sold under this Charter or his legal representatives may redeem the same at any time within sixty (60) days from the day the sale thereof is approved by the Court, by paying to the purchaser or his legal representatives, successors or assigns, the amount of the purchase price and fifteen percent (15%) in addition thereto, together with all costs incurred in the cause, or if the purchaser or his legal representatives, successors or assigns, refuse to receive the same, or do not reside or cannot be found within the City of New Castle, by paying the amount into the Court for the use of the purchaser, his legal representatives or assigns.

If the owner of any real estate sold under an order of sale or his legal representative redeems the real estate, he may present to the Superior Court a petition setting forth that fact and thereupon the Superior Court, after hearing and determining the facts set forth in the petition, shall have power to cause to be entered upon the record of the judgment, under which the real estate was sold, a memorandum that the real estate described in the proceedings upon which the judgment was entered has been redeemed. Thereafter the owner shall hold such redeemed real estate subject to the same liens and in the same order of priority as they existed at the time of the sale thereof, except insofar as the liens have been discharged or reduced by the application of the proceeds by the Sheriff from the sale.

Upon the return of the proceedings under a writ of venditioni exponas, the Superior Court may inquire into the regularity of the proceedings thereunder and either approve the sale or set it aside.

No monition proceedings shall be brought under this Charter unless the tax or assessment sought to be collected hereunder shall at the time of the filing of the praecipe in the Office of the Prothonotary be and constitute a lien upon the property against which the tax or assessment was assessed or laid.

Whenever the Superior Court is mentioned in this Charter, the same shall be held to embrace the Judges or any Judge thereof, and any act required or authorized to be done under this Charter may be done by the Superior Court or any Judge thereof in vacation thereof, as well as in term time.

The fees and costs to be taxed in all proceedings under this Section, where not otherwise provided for, shall be set by the Council by ordinance.

Any real estate now or hereafter purchased by the City at sales for taxes, may be sold by order of the Council of said City, and deed for the same shall be made to the purchaser or purchasers and executed for the municipal corporation by the Mayor or the President of Council and City Clerk. Such deed shall convey all the rights of the municipal corporation in the property, and the proceeds of such sales shall be deposited in the City Treasury as part of the general tax money of the City.

(d) Remedies Cumulative. The remedies herein provided are cumulative and, if two or more proceedings are pending to recover the amount due for taxes or other charges upon the same property for any year, neither proceeding shall be pleaded in bar or in suspension of other proceedings. However, when the full amount due for taxes upon the property for the year or other charges shall have been paid to the plaintiff in any proceeding, together with all costs in all proceedings then pending, plaintiff shall enter upon the records thereof discontinuances thereof.

(e) Establishment of Collection Methods. Specifics procedures for the collection of delinquent taxes and other charges generally provided under this and the preceding Sections, where not otherwise provided for, shall be set by the Council by ordinance. All other procedures not covered by this and the preceding Sections shall be the same as are provided by law.

(f) Fees and Costs. The fees and costs to be fixed in all monition proceedings and all other delinquent tax recovery methods under this and the preceding Sections, where not otherwise provided for, shall be set by the Council by ordinance. All other charges not covered by this and the preceding Sections shall be the same as are provided by law.

#### Section 20. Borrowing for Current Operating Expenses

Whenever the needs of the City shall require more money than is, at the time, in the City treasury from current receipts, the Council shall be authorized and empowered to anticipate current revenue by borrowing such amounts as are needed. The aggregate amount of outstanding principal from any such borrowing or borrowings under this subparagraph shall not exceed \$500,000.00. Any borrowings under this paragraph shall, by their terms, be repayable in full within (13) months of the date of each such borrowing or the maximum time period permitted under Federal tax law, whichever greater.

To exercise the power aforesaid the Council shall adopt a resolution to that effect, which resolution shall be by roll call and require the affirmative vote of at least a two-thirds majority of all members of the Council. The indebtedness created under this provision shall be secured by a promissory note or notes or other evidence of indebtedness of the City, and the full faith and credit of the City may be deemed to be pledged thereby, and no officer nor Council member shall be personally liable for the payment of such notes because it is signed by them as officers of the City, and is authorized by a resolution of the Council. Such short-term debt shall not be considered as part of the bonded debt of the City when limitations under indebtedness, as set forth elsewhere in this Charter, are computed.

#### Section 21. Borrowing for Capital Expenses

(a) The Council of the City of New Castle shall have the power to borrow upon the full faith and credit of said City, a sum or sums not to exceed one and two-tenths percent (1.2%) of total assessed value of the real estate in said City in principal amount outstanding at any one time, for capital expenditures, pursuant to a resolution following public hearing, passed by a two-thirds majority of all members of Council, and give its obligation therefore, subject to a twenty percent (20%) borrowing limitation set forth in Section 21(b). All obligations or bonds authorized by this Section shall be signed by the President of Council and countersigned by the Treasurer, and sealed with the corporate seal. The form of the bonds or certificates of indebtedness authorized under this section, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the

denomination, the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the Council of City of New Castle. All bonds or other kinds or forms of certificates of indebtedness issued by the City pursuant to the provisions in this Section, and the interest thereon, shall be exempt from taxation from the State of Delaware or any political subdivision thereof. The aggregate principal amount of debt outstanding from any such borrowing or borrowings under Section 21(a) shall at no time exceed one and two-tenths (1.2) percent of total assessed value of the real estate in said City. Anything to the contrary herein notwithstanding, the Council of the City of New Castle shall have no authority under this Section 21 (a) to borrow for purposes of funding the construction of a pier or wharf on the banks of the Delaware River at the terminus of Delaware Street in the City.

(b) The Council of the City of New Castle may borrow money for municipal purposes of any character whatsoever, upon the full faith and credit of said City, secured by revenues pledged to secure and repay such indebtedness, or both, and issue bonds or other evidence of indebtedness, but in no case shall the total indebtedness of every kind (including amounts borrowed pursuant to Section 21(a), but exclusive of amounts payable solely from revenues or borrowed pursuant to Section 20) exceed twenty percent (20%) of the then last assessed value of all real estate in said City. Before borrowing any sums (other than sums borrowed pursuant to Section 20 or Section 21(a) hereof) the Council shall submit to the qualified voters of said City the question of borrowing such sum or sums of money, and such borrowing shall not be authorized unless first approved by a majority of the votes cast at a special election to be held for that purpose. Notice of such special election stating the amount proposed to be borrowed (which may be stated as a not-to-exceed amount) and, when borrowed, what the aggregate of the municipal indebtedness will be, and the purpose to which the loan will be applied, shall be posted according to Delaware law at least ten (10) days prior to said special election.

(c) At such special election, any person who is entitled to vote in the annual City election, if it were held on that day, shall be entitled to vote. The said election shall be by ballot or voting machine, if required by State law, and under like provisions and by like officers as herein provided for holding general municipal elections. The ballots shall be printed 'For Bond Issue' or 'Against Bond Issue' (or if for multiple projects, 'For' or 'Against' a Bond Issue in an aggregated stated principal amount for a stated project. If a majority of the votes cast be 'For the Bond Issue' (or if multiple projects, For Bond issue in the aggregate principal amount for a stated project), then the Council shall have the authority to borrow the sum or sums of money and issue the bonds therefore, pledging the full faith and credit of said City.

(d) If revenue bonds are issued, each such bond shall recite in substance that said bond, including interest therein, is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the City of New Castle within the meaning of the bonded indebtedness limitation contained in Section 21(b) above provided, however, that in the event of some emergency, the City may temporarily borrow, advance or loan such amount as is necessary to meet current interest on outstanding bonds, such advance or loan to be repaid to the City of revenue subsequently received from the undertaking. If revenue bonds are issued, the Council shall prescribe and have collected reasonable rates, fees or charges for the service, facilities and accommodations of said undertaking and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will procure revenue at least sufficient to pay, when due, all bonds and interest thereon the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefore, and to provide for all expenses of operation and maintenance of such undertaking, payments in lieu of taxes, depreciation and other reserves. Any bonds or indebtedness secured by both revenues and the full faith and credit of the City, shall be subject to the limitations contained in Section 21(b).

(e) In connection with development plans, the Mayor and Council have the power to impose, upon new development or construction, upon first-time occupancy of new construction, or upon annexed property such 'impact fees' as are reasonably calculated to recover the proportionate cost of installing, enlarging, improving or expanding public or municipal improvements including sewer, water, electric, gas, roads, parking, police and parks and to contribute to the costs of operations of those volunteer fire companies and/or ambulance/paramedic companies providing services within the City.

(f) Any bonds, notes or evidence of indebtedness issued pursuant to this Section and the interest thereon shall be exempt from taxation by the State of Delaware, its agencies and political subdivisions. The form of the bonds or certificates of indebtedness authorized under this Section, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination, the name thereof, and any other relative or appurtenant matter pertaining thereto shall all be determined by the Council of the City of New Castle, by resolution. Any such bonds, notes or evidences of indebtedness may be sold in a public or private sale as determined by the said Council.

(g) If the City shall irrevocably deposit in trust with a Delaware bank or trust company that has offices in the State of Delaware, amounts sufficient, together with investment proceeds thereof, to pay principal and interest on indebtedness of the City when due and upon maturity or earlier redemption, such indebtedness shall not be deemed outstanding for purposes of the debt limitations contained herein. Any bonds or other debt instruments issued by the City to currently or advance refund-existing indebtedness shall not require a special election, provided that the refunding results in debt service savings to the City.

#### Section 22. Reserve Fund

The Council of the City of New Castle shall have authority to provide for a reserve fund for the redemption of any and all bond issues now outstanding against said City, or which may be hereafter issued by the City, at or before their maturity.

#### Section 23. Survival of Power and Validation

(a) This Act shall operate to amend, revise and consolidate, 'An Act to Re-incorporate the City of New Castle' being 67 Del. Laws, Chap. 30 (1989), as amended by 69 Del. Laws, Chap344, and the various amendments and supplements thereto, and to repeal all such parts of said Act and its amendments and supplements as are manifestly inconsistent with the provisions of this Act. All powers conferred upon or vested in the City of New Castle by any Act of Law of the State of Delaware not in conflict with the provisions of this Charter, are hereby expressly conferred upon, and vested in the City of New Castle and/or the Council of the City of New Castle, precisely as if each of the said powers was expressly repeated in this Charter.

(b) All ordinances and resolutions heretofore lawfully enacted or adopted by the "The Mayor and Council of the City of New Castle," "The Council of the City of New Castle" or the "Mayor and Council of New Castle", and now in force, shall so remain until repealed, modified or altered by the Council of the City of New Castle" under provisions of this Charter; all the acts and doings of the Mayor and Council of New Castle or any officers or employees of the City of New Castle lawfully done or performed under the provisions of any law of this State, or of any ordinance of the City of New Castle prior to the approval of this Act, are hence ratified and confirmed; all taxes, debts, fines or penalties, assessments and forfeitures due the Mayor and Council of New Castle shall be deemed to be due to the City of New Castle and debts due from the Mayor and Council of New Castle shall be deemed to be due from the City of New Castle and the same shall remain unimpaired until paid; and the power, right and authority to collect taxes imposed under the provisions of this Act, and the process which may be employed hereunder, shall be deemed to apply and to extend to unpaid taxes imposed under the Charter of the City of New Castle and all amendments and supplements thereto; the bonds given by or account of the Mayor and Council of New Castle shall not be impaired by or affect by the provisions of this Act, but the City of New Castle shall succeed to all benefits of said bonds; all valid laws heretofore passed relating to or concerning the Mayor and Council of New Castle or authorizing the borrowing of money and issuing of bonds on the credit of the Mayor and Council of New Castle shall be and remain valid and good as heretofore, and shall be unaffected and unimpaired by this Act.

#### Section 24. Severability Clause

If any provision of this Act or the application thereof to any provision or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

#### Section 25. Construction of Provision of Charter

In construing this Act, every word importing the masculine gender only may be extended to and include females as well as males.

The word "Council" shall be construed to mean the "Council of the City of New Castle". The word "City" shall be construed to mean the "City of New Castle".

The words "land" or "lands" or "real estate" shall be construed to include lands, tenements and hereditaments.

Section 26. Public Act

This Act shall be deemed and taken to be a public Act.

Approved June 20, 2012