

CHAPTER 281
FORMERLY
SENATE BILL NO. 237

AN ACT TO AMEND THE CHARTER OF THE TOWN OF BETHANY BEACH RELATING TO ALDERMEN.

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 Town of Bethany Beach by making insertions as shown by underlining and deletions as shown by strike through as follows:

Section 15. Alderman and Assistant Alderman

~~15.1 Appointment. The Town Council may recommend to the Governor for appointment and confirmation by the Senate suitable persons to serve as Alderman and one (1) or more Assistant Aldermen, each of whom shall serve for a two (2) year term, subject, however to being removed from office for just cause at any time, by a vote of two thirds of all members of the Town Council.~~

~~15.2 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 live in Sussex County, Delaware, and shall not be a member of the Town Council or otherwise an officer or employee of the Town of Bethany Beach.~~

~~15.3 Oath of Office. Before entering upon the duties of his office, the person appointed to serve as Alderman and the person appointed to serve as 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 Town of Bethany Beach and ordinances duly enacted by the Town Council of the Town of Bethany Beach.~~

~~15.4 Duties. It shall be the duty of the Alderman and Assistant Alderman to enforce all laws enacted for the government of the Town and to carry into effect all orders and directions of the Town Council made pursuant to any law of this State, and to carry into effect any ordinance which the Town Council may legally make or establish.~~

~~The Assistant Alderman shall perform the functions of the Alderman if the Alderman is unavailable and at such other times as may be designated by the Town Council. During such periods of time, the Assistant Alderman shall have all the duties and powers of the Alderman.~~

~~15.5 Alderman's Docket. The Town Council 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 each record all official acts and proceedings in the Alderman's Docket.~~

~~15.6 Jurisdiction. The Alderman and Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace, offenses and violations of any ordinance of the Town committed within the corporate limits of, and within one mile of the corporate limits of, the Town of Bethany 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 Town 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.~~

~~15.7 Civil and Criminal Penalties; Costs. Neither the Alderman nor the Assistant Alderman shall impose any penalty in excess of that fixed by the ordinances of the Town Council, exclusive of costs, nor imprison any offender for more than thirty (30) days, or both, except as otherwise specifically provided in this Charter; but the Alderman or Assistant Alderman may, in addition to any other fine or term of imprisonment permitted to be assessed or imposed, impose and collect such court costs as are set by ordinance or resolution of the Town Council, provided that no court costs shall be imposed which are in excess of that which may be imposed by a Justice of the Peace for like service.~~

~~15.8 Monthly Report to Town Council. The Alderman and Assistant Alderman shall prepare and submit a monthly report to the Town Council reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the Town all such fines and penalties at such times as the Town Council shall direct.~~

~~15.9 Compensation. The Alderman and Assistant Alderman shall receive such compensation as may be fixed from time to time by Resolution of the Town Council, which compensation shall not be contingent upon or related to the amount of any civil or penal fines imposed or collected.~~

~~15.10 Removal from Office. If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he shall deliver to the Mayor within five (5) days after his removal from office, all the books and papers belonging to his office, and shall pay over to the Treasurer all moneys in his hands within five (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 Assistant Alderman, the Mayor may require the auditor of the Town to make an audit of the books and papers of the official so removed from the office. 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 removed, 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 fails to deliver the books and papers to the Mayor or to pay over all moneys to the Treasurer.~~

15.1 Appointment. An Alderman or Assistant Alderman shall be recommended by the Town, appointed by the Governor and confirmed by the Delaware State Senate. Sworn into Office by the Mayor, and recorded at the Recorder of Deeds in Sussex County.

15.2 Appointment and Reappointment Nomination. When a vacancy occurs the Town Council shall by majority vote, submit a qualified candidate and application to the Governor for consideration of appointment. At least 30 days prior to the expiration date of an Alderman's or Assistant Alderman's term, the Town Council shall by majority vote, determine whether or not to recommend reappointment of the Alderman or Assistant Alderman for an additional term. The Town shall submit a letter of recommendation to the Governor for consideration of reappointment or any new appointment.

15.3 Term of Office. The Alderman and Assistant Alderman shall serve a 2 year term and may remain in office until either reappointed or a successor is duly qualified.

15.4 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/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 Town, and shall within five (5) days pay over to the Treasurer all moneys in his/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 Town 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 fails to deliver the books and papers to the Mayor or to pay over all moneys to the Treasurer.

15.5 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.

15.6 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 member of the Town Council or otherwise an officer or employee of the Town of Bethany Beach.

15.7 Oath of Office. Within 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 Town of Bethany Beach and ordinances duly enacted by the Town Council of the Town of Bethany Beach.

15.8 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 Town and to carry into effect all legally binding orders and directions of the Town Council 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.

15.9 Compensation. The compensation of the Alderman and Assistant Alderman shall be fixed by the Town Council and approved in conjunction with the Town Council's adoption of the Town operating budget. If no change is proposed and approved by the Town Council, the previously established compensation rate shall continue in effect until revised by a majority vote of the Town Council. 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.

15.10 Alderman's Docket. The Town Council 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.

15.11 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 Town committed within the corporate limits of corporate limits of the Town of Bethany 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 Town 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.

15.12 Civil and Criminal Penalties; Costs. Neither the Alderman nor the Assistant Alderman shall impose any penalty in excess of the penalties in the Town 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 costs as are set by ordinance or resolution of the Town Council.

15.13 Monthly Report to Town Council. The Alderman and Assistant Alderman shall prepare and submit a written monthly report to the Town Council reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the Town all such fines and penalties at such times as the Town Council shall direct. Neither the Town Council nor the Mayor may establish or communicate an expected revenue budget for the Alderman Court.

15.14 Alderman Court Facilities and Staff. The Town of Bethany 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 town operations, including, but not limited to, police agency functions. The town 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 town government operations.

Approved June 28, 2012