

CHAPTER 232  
FORMERLY  
SENATE BILL NO. 170  
AS AMENDED BY  
SENATE AMENDMENT NO. 1  
AND  
HOUSE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND THE CHARTER OF THE TOWN OF DEWEY BEACH RELATING TO ALDERMANS.

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 Dewey by making insertions as shown by underlining and deletions as shown by strike through as follows:

~~Section 20 of the Mayors or Alderman's Courts.~~

~~The Commissioners are authorized to establish a Mayor's Court or an Alderman's Court, in in the case of the Alderman's Court to appoint an Alderman in a manner consistent with the Constitution and laws of the State of Delaware.~~

Section 20.1 Alderman and Assistant Alderman. The Commissioners are authorized to establish an Alderman's Court in a manner consistent with Constitution and laws of the State of Delaware.

20.2 Appointment. An Alderman and Assistant Alderman shall be recommended by the Town, appointed by the Governor and confirmed by the Delaware State Senate. Once confirmed the Alderman and/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.

20.3 Appointment and Reappointment Nomination. When a vacancy occurs the Town Council shall by majority vote, submit a list of 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 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 alternatively, its written recommendation of one or more qualified candidates along with their applications and supporting documentation to the Governor for consideration of appointment.

20.4 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.

20.5 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.

20.6 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 6 weeks, the Town 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. Section 9211(a) to serve in such capacity, and shall receive such compensation as may be established by the Town Council. A retired Magistrate acting as Alderman shall have all powers, duties, and responsibilities of the Alderman as set forth in this Charter.

20.7 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 within Sussex County, and shall not be a member of the Town Council or otherwise an officer or employee of the Town of Dewey Beach.

20.8 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 Dewey Beach and ordinances duly enacted by the Town Council of the Town of Dewey Beach.

20.9 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.

20.10 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.

20.11 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.

20.12 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 the Town of Dewey 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.

20.13 Civil and Criminal Penalties; Costs. Neither the Alderman nor the Assistant Alderman shall impose any penalty in excess of Five Hundred Dollars (\$500) 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 or resolution of the Town Council.

20.14 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.

20.15 Alderman Court Facilities and Staff. The Town of Dewey 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 May 01, 2012