

CHAPTER 306
FORMERLY
HOUSE BILL NO. 351
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND THE CHARTER OF THE CITY OF NEWARK RELATING TO THE 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 Newark, Volume 48, Chapter 152, Laws of Delaware, as amended, by making insertions as shown by underlining and deletions as shown by strike through as follows:

602 - - ALDERMAN.

~~There shall be an alderman of the city. The alderman shall not be a member of the council or the city solicitor. The city council shall, by resolution, nominate a person to serve as alderman. The name of such nominee shall be transmitted to the Governor of the State of Delaware. Thereafter, if the Governor sees fit to do so, the name of such nominee shall be submitted to the State Senate for confirmation to the position of alderman. The same procedure shall be followed if there shall occur a vacancy in the position of alderman for any reason and shall also be followed if the alderman shall determine that it is necessary and appropriate to appoint a deputy alderman. The alderman shall be paid a salary to be fixed by ordinance, and shall not retain any fines or fees levied by the court, but must pay such fines and fees into the city treasury within five (5) days of collection. Before entering upon the duties of office, the alderman shall be sworn or affirmed by the Mayor or by any one of the council members, or by any justice of the peace, to perform the duties of alderman honestly, faithfully, and diligently. The alderman shall have jurisdiction of all violations of ordinances of the city and of all misdemeanors prescribed by any law of the State of Delaware committed within the boundaries of the city. The alderman shall have power and authority to hold for bail, fine or imprison offenders, compel the attendance of persons accused of violation of city ordinances by service of process either within or without the limits of the city, compel the attendance of witnesses, and hold or punish for contempt; provided that in the case of a violation of an ordinance, the alderman shall impose no fine or penalty in excess of that fixed by the ordinance. The alderman shall keep a book to be called 'Alderman's Docket', in which shall be entered at large all of the alderman's official acts. If any vacancy shall occur in the office of the alderman by resignation, removal from office, or otherwise, the alderman shall deliver to the successor in office within two (2) days, all books and papers belonging to the office, and shall pay over to the treasurer of the city all monies in hand belonging to the said city within five (5) days after such vacancy shall occur; upon neglect or failure to deliver to the successor in office, within the time aforesaid, all the books and papers belonging to the office, or upon neglect or failure to pay over to the treasure of the city, within the time aforesaid, all monies belonging to the city, the alderman shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00).~~

~~The alderman, at every stated meeting of the council, shall report to it all fines and penalties imposed by him since their last meeting, and to pay to the treasurer of the city all such fines and penalties received by him during the said time, and in default of making such report or paying such fines and penalties for a period of twenty (20) days after such report should be made and such fines and penalties should be paid aforesaid, he shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00).~~

602.1 – Alderman and Deputy Alderman. The City Council is authorized to establish an Alderman's Court in a manner consistent with Constitution and laws of the State of Delaware.

602.2 – Appointment. An Alderman and Deputy Alderman shall be recommended by the City, appointed by the Governor and confirmed by the Delaware State Senate. Once confirmed the Alderman and/or Deputy 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 New Castle County.

602.3 – Appointment and Reappointment Nomination. When a vacancy occurs the City 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 Deputy Alderman's term, the City Council shall by majority vote, determine whether or not to recommend reappointment of the Alderman or Deputy Alderman for an additional term. The City Council 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.

602.4 – Term of Office. The Alderman and Deputy Alderman shall serve a four-year term and shall remain in office until either reappointed or a successor is duly qualified.

602.5 – Removal. An Alderman or Deputy 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 Deputy Alderman may also be replaced upon expiration of a term, following Senate confirmation of a new Alderman or Deputy Alderman.

If any Alderman or Deputy Alderman has resigned or 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 resignation or of Senate confirmation or Court on the Judiciary action, deliver all the books and papers belonging to the City, 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 Deputy 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 Deputy 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.

602.6 – Vacancy. In the absence of the Alderman, or when a vacancy occurs in the office of Alderman, the Deputy 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 Deputy Alderman to act as Alderman, and the Delaware State Senate is recessed for more than 6 weeks, the City Council may elect to have a retired Magistrate who is a member of the bar of the State of Delaware or a former Alderman or Deputy Alderman of the City who has previously been appointed by the Governor and confirmed by the Senate act as Alderman pending the confirmation of a nominee with the Delaware State Senate. Such retired Magistrate or a former Alderman or Deputy Alderman 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 City Council. A retired Magistrate acting as Alderman shall have all powers, duties, and responsibilities of the Alderman as set forth in this Charter.

602.7 – Qualifications. Any person appointed to serve as Alderman or Deputy Alderman shall be at least twenty-five (25) years of age, a member of the bar of the State of Delaware, a United States citizen, of good character and reputation, shall live within New Castle County, and shall not be a member of the City Council or otherwise an officer or employee of the City.

602.8 – Oath of Office. Within 14 days of Senate confirmation the Alderman or Deputy 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 and ordinances duly enacted by the City Council of the City of Newark.

602.9 – Duties. It shall be the duty of the Alderman and Deputy 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 City Council made pursuant to any law of this State or its Constitution. In carrying out the duties of the office, an Alderman or Deputy 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.

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

602.11 – Alderman’s Docket. The City Council shall procure suitable records for the use of the Alderman and the Deputy Alderman. Such records shall be known as the “Alderman’s Docket”. The Alderman and Deputy 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.

602.12 – Jurisdiction. The Alderman and Deputy 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. 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 Deputy 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 Deputy Alderman may impose shall never exceed the limits established by this Charter.

602.13 – Civil and Criminal Penalties; Costs. Neither the Alderman nor the Deputy 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 any City ordinance enacted hereunder or by state statute; but the Alderman and Deputy 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 City Council.

602.14 – Monthly Report. The Alderman and Deputy Alderman shall prepare and submit a written monthly report to the City Council 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 City Council shall direct. Neither the City Council nor the Mayor may establish or communicate an expected revenue budget for the Alderman Court.

602.15 – Alderman Court Facilities and Staff. The City of Newark 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 City 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.

Section 2. This Act, including but not limited to a four-year term of office for the current Alderman and Deputy Alderman, shall commence upon its enactment into law.

Approved July 05, 2012