

**TOWN OF NEWPORT
DELAWARE**

RESOLUTION NO. 2012- 002

RESOLUTION TO REQUEST OF THE DELAWARE LEGISLATURE AND
THE HONORABLE GOVERNOR OF THE STATE OF DELAWARE TO GRANT
CHANGES TO THE CHARTER OF THE TOWN OF NEWPORT – CHAPTER 214,
VOLUME 66 LAWS OF DELAWARE, AS AMENDED

WHEREAS, the Mayor and Commissioners desire to amend the Charter of the Town of Newport to reflect certain changes that have occurred and are desired in Town Government, including but not limited to the appointment by the Governor of the Town of Newport Alderman and Assistant Alderman and certain provisions regarding the Town of Newport Alderman and Assistant Alderman.

BE IT HEREBY RESOLVED, that the Mayor and Commissioners request that the General Assembly of the State of Delaware amend Chapter 214, Volume 65, Laws of Delaware, as amended, being the Charter of the Town of Newport, as follows:

Section 1. Amend ARTICLE III, Section 3-05, Qualifications for Mayor and Commissioners., Chapter 214, Volume 65, Laws of Delaware, as amended, by striking the following words:

“and has currently paid all Town taxes due”

Section 2. Amend ARTICLE III, Section 3-12, Meetings of Commissioners., Chapter 214, Volume 65, Laws of Delaware, as amended, by:

striking the words: “second Monday” and replacing with “third Thursday”

Section 3. Amend ARTICLE III, Section 3-15, Organizational Meeting., Chapter 214, Volume 65, Laws of Delaware, as amended, by:

striking the words: “second” and replacing with “third”

Section 4. Amend ARTICLE IV, Section 4-03, Payment of Taxes., Chapter 214, Volume 65, Laws of Delaware, as amended, by:

deleting “.” at the end of the first sentence and by adding the following words at the end of the first sentence:

“; provided however, the Mayor and Commissioners may provide by Ordinance with a 4/5^{ths} vote, for an earlier due date for payment of taxes so long as such date is not less than ninety (90) days following the commencement of the fiscal year.”

Amend the second sentence by adding the following words after "June 30th":

" , or such earlier date, so long as such date is not less than ninety (90) days following the commencement of the fiscal year, as established by Ordinance with 4/5^{ths} approval"

Section 5. Amend ARTICLE VI, Section 6-06 Capital Program, Chapter 214, Volume 65, Laws of Delaware as amended, by amending subsection C. Definition of "Capital" as follows:

At the event of end of the paragraph:

Delete "five thousand dollars (\$5,000.00)".

Insert "twenty-five thousand dollars (\$25,000.00)".

Section 6. Amend ARTICLE VII, Section 7-06, Alderman and Assistant Alderman., Chapter 214, Volume 65, Laws of Delaware, as amended, by striking Section 7-06 in its entirety and substituting therefor an entirely new Section 7-06, as follows:

Section 7-06 Alderman and Assistant Alderman.

A. 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 New Castle County.

B. Appointment and Reappointment Nomination. When a vacancy occurs in the Office of Alderman or Assistant Alderman, the Mayor and Commissioners of the Town of Newport shall, by majority vote, submit a list of at least 1 qualified candidate and an 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 Mayor and Commissioners of the Town of Newport 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 a letter with at least 1 qualified candidate and an application to the Governor for consideration of appointment.

C. 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.

D. Removal. An Alderman or Assistant Alderman may be censured or removed subject to the provisions of Article IV, Section 37 of the Delaware Constitution of 1897 and the Rules of the Court on the Judiciary. An Alderman or Assistant Alderman may also be

replaced upon expiration of a term, following Senate confirmation of a new Alderman or Assistant Alderman.

If any Alderman or Assistant Alderman has been removed from office by Senate confirmation of a new nominee or by action of the Court on the Judiciary, he/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.

E. Vacancy. In the absence of the Alderman, or when a vacancy occurs in the office of Alderman, the Assistant Alderman shall exercise all the powers, duties, and responsibilities of the Alderman as set forth in this Charter. When a vacancy occurs for an Alderman and there is no Assistant Alderman to act as Alderman, and the Delaware State Senate is adjourned for more than 6 weeks, the Town may elect to have a retired Magistrate act as Alderman pending the 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 Mayor and Commissioners of the Town of Newport. A retired Magistrate acting as Alderman shall have all powers, duties, and responsibilities of the Alderman as set forth in this Charter until session resumes and a successor is duly qualified.

F. Qualifications. Any person appointed to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, a United States citizen, a Delaware citizen, of good character and reputation, and shall reside within New Castle County, and shall not be a Mayor or Commissioner of the Town of Newport or otherwise an officer or employee of the Town of Newport.

G. 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 support the Constitution of the United States and the Constitution of the State of Delaware, and to uphold and enforce the Charter of the Town of Newport and ordinances duly enacted by the Mayor and Commissioners of the Town of Newport.

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

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

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

K. Jurisdiction. The Alderman and Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace, offenses and violations of any civil or criminal ordinance of the Town committed within the corporate limits of, and within one mile of the corporate limits of, the Town of Newport. 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.

L. Civil and Criminal Penalties; Costs. Neither the Alderman nor the Assistant Alderman shall impose any penalty in excess of the State Statutory penalty when enforcing the laws of the State of Delaware, as set forth in the Delaware Code, as amended, 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 Mayor and Commissioners of the Town of Newport, provided that when enforcing the laws of the State of Delaware as set forth in the Delaware Code, as amended, no costs shall be imposed which are in excess of that which may be imposed by the Justice of the Peace Court for like service. When imposing penalties for violation of Town of Newport Ordinances, the Alderman and Assistant Alderman may impose such fines and costs as are validly authorized by Town of Newport Ordinances.

M. Monthly Report to Mayor and Commissioner of the Town of Newport. The Alderman and Assistant Alderman shall prepare and submit a written monthly report to the Mayor and Commissioners 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 Mayor and Commissioners shall direct. Neither the Mayor nor the Commissioners may establish or communicate an expected revenue budget for the Alderman Court, notwithstanding the forgoing, the Mayor and Commissioner's may establish in their own budget a line item based upon an estimate using the prior year's activity for financial budgeting only.

N. Alderman Court Facilities and Staff. The Town of Newport 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."

Section 7. Amend ARTICLE IX, Section 9-04, Powers and Duties of the Town Manager., Chapter 214, Volume 65 Laws of Delaware, as amended, as follows:

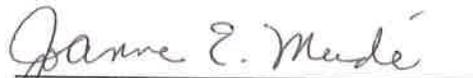
I. Insert the following language at the end of the first sentence of Section I:

“provided however, that nothing contained herein shall create the responsibility for the Town to pay for the sidewalk repairs and maintenance as such matters shall only be governed by a duly adopted Town Ordinance.”

Section 8. Amend ARTICLE XII, Section 12-05, Charter Amendments, Chapter 214, Volume 65, Laws of Delaware, as amended, by adding a second paragraph as follows:

In addition to the forgoing procedure for Charter Amendment by Referendum, as well as procedures established by applicable Delaware law, the Charter of the Town of Newport may be amended by the General Assembly, when properly sponsored and introduced by a member of the General Assembly and which is approved by two-thirds members of each House and signed by the Governor. The Mayor and Commissioners may request such a Charter Amendment from the Delaware General Assembly by Resolution of the Mayor and Commissioners passed by a majority vote after a duly noticed public hearing thereon.

The Commissioners of the Town of Newport hereby adopt this Resolution and its provisions to be held in full effect from this 15TH day of MARCH, 2012.


Town Secretary


Town Solicitor


Mayor


Commissioner


Commissioner


Commissioner


Commissioner

Date of Public Hearing:

3/15/2012