

Town of Dewey Beach, DE
Wednesday, May 10, 2017

Chapter C. Charter of the Town of Dewey Beach

Section 20.1. Alderman and Assistant Alderman.

(78 Del. Laws, c. 232, 5/1/2012)

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

Section 20.2. Appointment.

(78 Del. Laws, c. 232, 5/1/2012)

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.

Section 20.3. Appointment and Reappointment Nomination.

(78 Del. Laws, c. 232, 5/1/2012)

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.

Section 20.4. Term of Office.

(78 Del. Laws, c. 232, 5/1/2012)

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.

Section 20.5. Removal.

(78 Del. Laws, c. 232, 5/1/2012)

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.

Section 20.6. Vacancy.

(78 Del. Laws, c. 232, 5/1/2012)

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.

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Chapter 5. Alderman and Assistant Alderman

[HISTORY: Adopted by the Commissioners of the Town of Dewey Beach 5-14-2005 by Ord. No. 539. Amendments noted where applicable.]

§ 5-1. Alderman Court.

The Alderman Court for the Town of Dewey Beach shall operate and have jurisdiction in accordance with this chapter and the provisions of Title 10, Delaware Code, § 1909.

§ 5-2. Qualification of Alderman and Assistant Alderman.

The Mayor shall nominate some qualified and suitable person to act as Alderman and may nominate some qualified and suitable person to act as Assistant Alderman. Any person nominated by the Mayor to serve as Alderman or Assistant Alderman shall be at least 21 years of age, shall be of good character and reputation, and shall not be a member of the Commissioners of Dewey Beach or otherwise employed by the Town. Any person nominated by the Mayor to serve as Alderman or Assistant Alderman shall be nominated to serve for a term not to exceed two years and any such nomination shall be confirmed by a resolution of a majority of all members of the Commissioners of Dewey Beach. In accordance with the provisions of Title 10, Delaware Code, § 1909, such Nomination Resolution shall be forwarded to the Governor of the State of Delaware as a suggested candidate and the Governor may appoint said candidate, by and with the consent of a majority of all members elected to the Senate. The Alderman or the Assistant Alderman shall not serve beyond the appointed term unless renominated and reconfirmed in accordance with the section. The salary of the Alderman and Assistant Alderman shall be set by the Town Commissioners.

§ 5-3. Duties of Alderman.

Before entering upon the duties of this office, the persons appointed by the Governor to serve as Alderman and Assistant Alderman shall be sworn or affirmed by the Mayor, and if determined by the Governor, by the Governor, to perform the duties of the office honestly, faithfully, and diligently and to uphold and enforce the Charter of the Town of Dewey Beach and ordinances duly enacted by the Commissioners of Dewey Beach and to carry into effect all orders of the Commissioners of Dewey Beach made pursuant to any law of this state. 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 Mayor. During such periods, the Assistant Alderman shall have all the powers and duties of the Alderman.

§ 5-4. Docket.

The Commissioners of Dewey Beach shall procure a suitable record for the use of the Alderman and the Assistant Alderman. Such record shall be known as the "Alderman's Docket." The Alderman and the

Assistant Alderman shall each record all official acts and proceedings in the Alderman's Docket.

§ 5-5. Jurisdiction and court costs.

The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of the Town of Dewey Beach so far as to arrest and hold for bail, or fine and imprison offenders for any offenses; to impose any penalty or forfeiture prescribed by the Charter of the Town of Dewey Beach or any ordinance enacted thereunder. The Alderman and the Assistant Alderman may, in addition to any fine or term of imprisonment permitted to be assessed or imposed, impose and collect court costs as prescribed in Chapter 1, § 1-14H of the Dewey Beach Municipal Code.

§ 5-6. Monthly report.

The Alderman and the Assistant Alderman shall prepare and submit a monthly report to the Commissioners of Dewey Beach 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.

§ 5-7. Expiration of term; removal from office; penalty.

If any Alderman or Assistant Alderman term shall expire without reappointment or in the event he or she shall be removed from office as provided by Delaware Laws, he or she shall deliver to the Town Manager, within two days after expiration of term or removal from office, all the books and papers belonging to this office and shall pay over to the Town Manager all monies in his or her hands immediately. Immediately after the receipt of the books and papers belonging to the office of either Alderman or the Assistant Alderman, the Town Manager shall require the auditor of the Town, appointed as herein provided, to make an audit of the books and papers of the official so removed from office. Upon the neglect or failure to deliver all the books and papers to the Town Manager within the time specified by this chapter, or to pay over all the monies to the Town Manager 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 no less than \$25 nor more than \$100 for each day that he fails to deliver the books and papers to the Town Manager or to pay over all monies to the Town Manager.^[1]

[1] *Editor's Note: Former § 5-8, Probation before judgment, added 10-13-2007 by Ord. No. 602, which immediately followed this section, was relocated to § 85-13 by Ord. No. 676, adopted 4-10-2010.*