Ordinance No. 529

An Ordinance to Amend and Restate Chapter 28 of the City Code entitled "Emergency Management".

WHEREAS, the nationwide COVID-19 pandemic compelled the declaration of a State of Emergency in the City of New Castle (the "City") pursuant to Chapter 28 of the City Code; and

WHEREAS, the State of Emergency in the City was terminated on June 1, 2020, by declaration of Mayor Michael J. Quaranta; and

WHEREAS, the City's experience with the recent State of Emergency revealed that Chapter 28 of the City Code is outdated and insufficient to address ~~and~~ novel emergency threats to the public welfare such as that presented by the COVID-19 pandemic; and

WHEREAS, the City Council has determined to amend and restate Chapter 28 of the City Code to improve and enhance the City's ability to manage emergency situations that threaten public health and welfare;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of New Castle as follows:

1. Chapter 28 of the City Code entitled "Emergency Management" is hereby amended and restated in its entirety as follows:

Chapter 28 **Emergency Management**

§28-1 Purpose

The purpose of this Chapter is to provide for a coordinated municipal response to emergencies that threaten the health, safety and welfare of persons and property in the City of New Castle; to provide for the declaration of an Emergency by the Mayor; to authorize certain measures in response to such emergencies; and to provide for the creation and adoption of an Emergency Management Plan.

§28-2 Definitions

(a) *Curfew.* A prohibition against any person's presence, whether within a vehicle of any kind, or on foot, upon any alley, street, highway, public property, or vacant premises within the corporate limits of the City of New Castle, for a designated period or periods of time and/or in a designated volume of occupancy. Such a prohibition shall not apply to persons officially designated to discharge duties through a valid Emergency Management Plan.

(b) *Emergency.* Any disaster resulting from a catastrophic condition caused by human intervention, a natural event, a public health crisis, civil disorder or war, impacting or likely to impact the City of New Castle and resulting in substantial damage to property or the environment, hardship, suffering, injury, or actual or potential loss of life, to such an extent that extraordinary measures must be taken to ensure public health, safety, and welfare. An Emergency must be proactively declared by the Mayor, in a writing made available for immediate dissemination to the public.

(c) *Emergency Management Coordinator.* A designation for the City Administrator on the Emergency Management Team, unless another person is designated by the Mayor pursuant to §28-4 of this Chapter, who shall be responsible for implementing the Mayor's executive decisions in accordance with an Emergency Management Plan. The Emergency Management Coordinator's designation shall expire at the termination of the applicable Emergency.

(d) *Emergency Management Plan.* A plan approved by the Mayor in accordance with §28-6 of this Chapter, in consultation with the Emergency Management Team, and setting forth measures for the Mitigation, Preparedness, Response, and Recovery of a given Emergency once an Emergency has been declared by the Mayor.

(e) *Emergency Management Team.* The team consisting of the members set forth in §28-4 of this Chapter responsible for coordinating and implementing any emergency authorities authorized under §28-5 of this Chapter in accordance with an Emergency Management Plan.

(f) *Mitigation.* Ongoing actions undertaken to reduce the impact of Emergencies, e.*g.* identifying and addressing potential and ancillary hazards.

(g) *Preparedness.* Actions undertaken in anticipation of a likely or imminent Emergency with the purpose of enhancing readiness and minimizing the impact thereof, e.*g.* maintenance of evacuation routes and shelters, and the acquisition of necessary resources such as food, medicine and other supplies, and taking action to protect vulnerable persons and property.

(h) *Recovery.* Post-Emergency actions implemented to aid in the re-normalization of the social, economic, and political structures of the City of New Castle. Actions designated as Recovery measures within an Emergency Management Plan may be taken for a reasonable period of time following the expiration of a declared Emergency.

(i) *Response*. Short-term actions taken to preserve life, property and the environment, with the objective of protecting and stabilizing the social, economic, and political structures of the City of New Castle, including but not limited to the imposition of a curfew or quarantine, search and rescue efforts, and crowd control.

§28-3 Declaration of a State of Emergency

In the event a State of Emergency affecting any part of the City of New Castle or areas surrounding the City has been declared by the Governor of the State of Delaware, or in the event the City or any part thereof is in imminent danger of suffering civil disturbance, acts of war or terrorism, environmental crisis, disorder, riot, a health or safety emergency or other similar occurrence that seriously and substantially endangers the lives, safety, health or property of the public, the Mayor is empowered and authorized to issue a public declaration that a state of Emergency exists in the City of New Castle. The declaration of a State of Emergency shall be made in writing, or, in extraordinary circumstances, a written declaration may be issued following its effect provided a written record of the date and time of such a declaration is maintained, and a written declaration is issued as soon as is practicable.

§28-4 Emergency Management Team

The Emergency Management Team shall consist of:

(a) The Mayor
(b) The President of the City Council
(c) The City Administrator, who shall also serve as the Emergency Management Coordinator unless another person is so designated by the Mayor due to the death, illness, disability or unavailability of the City Administrator.
(d) The Building Official
(e) The City Fire Marshall
(f) A Goodwill Fire Company liaison
(g) The Police Chief
(h) City Solicitor
(i) Other members of the City Council, the Municipal Services Corporation and the public as the Mayor deems necessary.

The Emergency Management Team shall develop an Emergency Management Plan in accordance with §28-6 of this Chapter. The Mayor may further designate individual members of the Emergency Management Team for specific aspects of the implementation of an Emergency Management Plan, as he deems fit in his or her sole judgment.

§28-5 Emergency Authority of Mayor

Following the declaration of an Emergency and for the duration thereof, the Mayor shall hereby have the authority to take the following actions in the interests of public safety, health, and welfare:

(a) Impose a Curfew generally, or as applicable to specific geographical areas of the City of New Castle, during those hours of the day or night he or she deems necessary;

(b) Prohibit or restrict gatherings on public streets, sidewalks, parks, open spaces, public and private properties within the city limits,

(c) Suspend or limit the sale, dispensation, or transportation of controlled substances (including but not limited to alcohol, tobacco, and marijuana), firearms, ammunition, explosives, inflammables, combustibles, or gasoline in a manner consistent with all national and state constitutional provisions, statutes, rules, regulations and orders in effect and applicable to the City;

(d) Temporarily suspend or amend the provisions of any procedural ordinance, statute, order, or regulation governing the conduct of City business or departments, provided such ordinance, statute, order, or regulation would substantially impede the ability of the Mayor (or his designated Emergency Management Coordinator) to implement an Emergency Management Plan;

(e) Make use of those City resources deemed reasonable and necessary to address an Emergency and implement an Emergency Management Plan;

(f) Transfer personnel and alter functions of City departments as needed to address an Emergency and implement an Emergency Management Plan;

(g) Commandeer or utilize private property if necessary to address an Emergency and implement an Emergency Management Plan, subject to any applicable compensation requirements therefore, and excepting the news media;

(h) Order the evacuation or relocate all or part of the City population from an affected geographical area if necessary for the preservation of life;

(i) Temporarily close any and all streets, alleys, and public through-ways within the City of New Castle;

(j) Designate evacuation routes;

(k) Exercise control over the ingress and egress of any geographical area within the City of New Castle;

(l) Provide for the use of temporary housing;

(m) Ration and distribute food, fuel, clothing, medicine, medical supplies and other life-preserving resources;

(n) Issue orders deemed in the Mayor's judgment to be necessary for the protection of life and property; and

(o) Such other authority as established in an Emergency Management Plan or expressly conferred by the City Council.

The provisions of this section shall not be deemed to restrict the movements and activities of members of the armed forces of the United States of America, the Delaware National Guard, any law enforcement officers, fire department and emergency medical personnel, FEMA personnel or other persons deemed by the Mayor or the Emergency Management Plan to be providing essential services involving health, safety or protection of property.

§28-6 Emergency Management Plan

1. Upon the declaration of an Emergency by the Mayor, the Emergency Management Team shall develop an Emergency Management Plan. An Emergency Management Plan shall set forth:

(a) The names of the members of the Emergency Management Team and the title, role, designation, or appointment which confers membership thereon;

(b) The nature and scope of the Emergency the Emergency Management Plan is being prepared for;

(c) The responsibilities specifically delegated by the Mayor to individual members of the Emergency Management Team;

(d) Any officials or other personnel designated as exceptions to curfew, quarantine or other restrictions imposed under the Emergency declaration;

(e) The nature and scope of specific measures to be taken, and authorities to be exercised hereunder, for the Mitigation, Preparedness, Response, and Recovery of the Emergency; and

(f) Any other pertinent information relating to the Emergency.

2. Further, the Mayor shall:

(a) be solely responsible for the approval and finalization of any given Emergency Management Plan;

(b) keep a record, to be maintained in the City offices, of all Emergency Management Plans for reference by current and future Emergency Management Teams;

(c) inform the City Council in writing of any approved Emergency Management Plans and modifications thereto;

(d) review, revise, and update any Emergency Management Plan as is reasonable and necessary to respond to an ongoing Emergency; and

(e) have sole discretion as to the implementation of any measures contained within an Emergency Management Plan.

3. The Mayor, in his or her sole discretion, may convene the Emergency Management Team in anticipation of a foreseeable, but not yet imminent, Emergency in order to prepare a prospective Emergency Management Plan and increase the ability of the Emergency Management Team to implement Mitigation and Preparedness measures.

§28-7 Duration of Emergency

(a) An Emergency declared by the Mayor shall exist for the period set forth in the declaration of Emergency, but not in excess of thirty (30) days. However, the Mayor may renew or extend the Emergency for additional periods of thirty (30) days in the same manner set forth in §28-3 above.

(b) The Mayor may terminate the state of emergency or modify its provisions prior to the time set forth in the Emergency declaration through a written declaration of termination or modification made available for immediate dissemination to the public through the City website, news media or other means.

§28-8 City Council's Role and Authority in Emergency

(a) The Mayor, or a duly authorized designee, shall inform all Council members of the declaration of an Emergency, the contents of any Emergency Management Plan, the planned or actual exercise of any of the Emergency authorities enumerated in §28-5 of this Chapter, and any modifications of the foregoing.

(b) After an Emergency has been declared, the President of City Council shall call an emergency meeting of the Council to be convened as soon as possible under current law. The City Council may, by vote of at least three (3) members of City Council, rescind or modify any of the Emergency authorities enumerated in §28-5 of this Chapter ordered by the Mayor. The City Council shall notify the Mayor in writing of such a vote, instructing him or her to so modify or cease the exercise of such authority.

(c) The City Council may terminate an Emergency declaration prior to its natural expiration by vote of at least three (3) members of City Council and subsequent written notice of such vote to the Mayor. Upon receipt of such a notice, the Mayor shall issue a written declaration of termination of the Emergency to be made available for immediate dissemination to the public on the City website and through the news media.

§28-9 Succession of Emergency Authority

If the Mayor is unavailable or otherwise unable to assume the authorities granted within this Chapter before or during an Emergency, then for so long as the Mayor is unavailable or unable to act, these authorities shall pass, to the following persons in the order of seniority listed below:

(a) President of the City Council;

(b) The longest serving member of City Council, in successive order; and

(c) If no City Council member is available, then the City Administrator.

§28-10 Violations and Penalties

(a) Any Emergency declaration issued pursuant to the terms of this Chapter, and all restrictions and regulations set forth therein shall have the force and effect of law for the duration of the Emergency.

(b) Any person found to have violated the terms of any Emergency declaration, restriction or regulation issued pursuant to this Chapter, shall be guilty of a criminal offense, and shall be punishable by a fine not less than $100.00, and not greater $1,000.00, imprisonment for a period not to exceed sixty (60) days, or both.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon adoption by the City Council.

First Reading: September 29, 2020

Second Reading: November 4, 2020

Signed this _____ day of _____, 2020

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Linda Ratchford, President of Council

I hereby certify that the foregoing Ordinance was duly approved by the Council of the Mayor and Council of New Castle upon the dates above set forth and signed by the President of Council.

_____
Brian G. Whitaker, City Clerk

Approved this_____ day of _____, 2020

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Michael J. Quaranta, Mayor