

## **Resolution 21 – 04**

**A RESOLUTION REQUESTING THE TOWN’S STATE SENATOR AND STATE REPRESENTATIVE TO INTRODUCE AND SUPPORT LEGISLATION TO CHANGE THE TOWN CHARTER TO ALLOW THE CREATION OF A VOLUNTARY ASSESSMENT CENTER IN THE TOWN OF ELSMERE FOR THE PAYMENT OF TRAFFIC AND PARKING VIOLATIONS.**

**Sponsored By:**

**Proposed:** June 10, 2021

**Results:** Passed 7 In Favor, 0 Opposed

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**WHEREAS,** The Mayor and Council wish to establish a Voluntary Assessment Center in the Town of Elsmere; and


**WHEREAS,** In order to establish the Voluntary Assessment Center the Town must amend its existing Home Rule Charter; and

**WHEREAS,** the method of amending the Town's Home Rule Charter requires the Delaware Legislature to approve any change;

**NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL, THAT;**

That the Mayor and Council request State Representative John L. Mitchell and State Senator Spiros Mantzavinos to introduce to the Delaware General Assembly a bill which would allow the Town of Elsmere to establish a Voluntary Assessment Center within the Town.

**RESOLVED BY THE MAYOR AND COUNCIL THIS 10<sup>th</sup> DAY OF JUNE 2021**



Eric Thompson, Mayor



Sally Jensen, Secretary

## **SYNOPSIS**

### **RESOLUTION 21 – 04**

This Resolution requests the State Legislature to amend the Town's Charter to establish a Voluntary Assessment Center within the Town.

### **FISCAL IMPACT**

This resolution is anticipated to increase the Town's annual revenues by approximately \$75,000.00.



SPONSOR: Rep. Mitchell & Sen. Mantzavinos  
Rep. Osienski; Sen. Ennis

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL

AN ACT TO AMEND THE CHARTER OF THE TOWN OF ELSMERE AND TITLE 21 OF THE DELAWARE CODE  
RELATING TO A VOLUNTARY ASSESSMENT CENTER.

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 Elsmere by making deletions as shown by strike through and  
insertions as shown by underline as follows:

Article VII-A. Voluntary Assessment Center.

Section 701A. Creation.

This Article authorizes the Council to create a Voluntary Assessment Center for the Town of Elsmere.

Section 702A. Jurisdiction and functions.

(a) The Voluntary Assessment Center, once created, has jurisdiction and cognizance of all breaches of the peace,  
offenses, and violations of a civil or criminal ordinance of the Town committed within the Town's corporate limits for  
which a voluntary assessment is issued.

(b) Where an individual elects to contest a charge under the jurisdiction of the Voluntary Assessment Center under  
subsection (a) of this section, jurisdiction is transferred to the Justice of the Peace Court.

(c) The Voluntary Assessment Center shall do all of the following:

(1) Process all uncontested payments of fines, fees, and costs relating to a violation of an ordinance legally  
enacted or established by the Town that are subject to a voluntary assessment.

(2) Enter all information required in connection with this Article into the Delaware Criminal Justice  
Information System (DELJIS) as required by law.

(3) Notify the Justice of the Peace Court when a hearing is requested. Such notification shall be in accordance  
with policies and procedures developed by the Justice of the Peace Court.

Section 703A. Civil and Criminal Penalties; Costs.

20 The Voluntary Assessment Center may impose and collect a cost in matters which come before it as set by  
21 ordinance or resolution of the Mayor and members of the Council, provided however that the cost may not exceed that  
22 which may be imposed by the Justice of the Peace Court for like Service.

23 Section 704A. Monthly Report to Mayor and Members of Council.

24 (a) The Voluntary Assessment Center staff shall prepare and submit a written monthly report to the Mayor and  
25 members of the Council reporting all fines and penalties imposed during the preceding calendar month.

26 (b) The Voluntary Assessment Center staff shall pay to the Town all fines and penalties contained in the monthly  
27 report at such times as directed by the Mayor and members of Council.

28 (c)(1) Except as provided by paragraph (c)(2) of this section, neither the Mayor nor the members of the Council  
29 may establish or communicate an expected revenue budget for the Voluntary Assessment Center.

30 (2) The Mayor or members of the Council may establish in the budget a line item based on an estimate using  
31 the prior year's activity for financial budgeting only.

32 Section 705A. Voluntary Assessment Center Facilities and Staff.

33 The town shall provide adequate and appropriate facilities and staff to facilitate the independent operations of the  
34 Voluntary Assessment Center.

35 (1) Except as provided by paragraph (2) of this section, the Voluntary Assessment Center facilities must be  
36 separate from conflicting town operations, including the Department of Public Safety.

37 (2) The Town may house the Voluntary Assessment Center in a common municipal building if the Voluntary  
38 Assessment Center is provided space physically separate from other Town functions and is situated in such a manner as  
39 to foster public confidence in the independence of the Voluntary Assessment Center.

40 Section 2. Amend § 709, Title 21 of the Delaware Code by making deletions as shown by strike through and  
41 insertions as shown by underline as follows:

42 § 709. Payment of motor vehicle fines.

43 (a) Applicability. — Any duly constituted peace officer in the State who charges any person with any of the  
44 offenses hereinafter designated “motor vehicle offenses subject to voluntary assessment” may indicate on the Uniform  
45 Traffic Complaint and Summons that the fine shall be paid by voluntary assessment unless the driver requests a hearing.  
46 When a voluntary assessment is permitted and the Uniform Traffic Complaint and Summons is properly executed by the  
47 officer, the driver may dispose of the charge without the necessity of personally appearing in the court to which the  
48 Uniform Traffic Complaint and Summons is returnable. The court to which the summons is returnable shall be determined  
49 by § 703 of this title unless the summons permits a voluntary assessment, in which case it shall be returnable to either the

50 applicable court or a voluntary assessment center established by the Justice of the Peace Court. Notwithstanding any  
51 provision of this section and chapter to the contrary, the City of Wilmington may establish the exclusive voluntary  
52 assessment center for parking summonses issued for designated offenses within the boundaries of the City of  
53 ~~Wilmington.~~ Wilmington, and the Town of Elsmere may establish a voluntary assessment center for any violation of a town  
54 ordinance within the boundaries of the Town of Elsmere.

#### SYNOPSIS

This Act amends the Charter of the Town of Elsmere and Title 21 of the Delaware Code to create a Voluntary Assessment Center and establish procedures governing the creation and operation of the Center.