

Introduced: April 1, 2020
Adopted: April 1, 2020
Effective: April 1, 2020

EMERGENCY CHARTER AMENDMENT RESOLUTION NO. 2020-01

AN EMERGENCY CHARTER AMENDMENT RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS, PASSED PURSUANT TO THE AUTHORITY OF ARTICLE XI-E OF THE CONSTITUTION OF MARYLAND, §§ 4-302(1) AND 4-304(a) OF THE LOCAL GOVERNMENT ARTICLE OF THE MARYLAND ANNOTATED CODE, AND EXECUTIVE ORDER NO. 20-03-30-02 OF THE GOVERNOR OF MARYLAND TO AMEND THE CHARTER OF ST. MICHAELS FOR THE PURPOSE OF AUTHORIZING THE COMMISSIONERS OF ST. MICHAELS TO POSTPONE, BY RESOLUTION, ANY REGULAR OR SPECIAL TOWN ELECTION WHEN A STATE OF EMERGENCY HAS BEEN DECLARED BY THE GOVERNOR OF MARYLAND, TALBOT COUNTY, MARYLAND, AND/OR THE COMMISSIONERS OF ST. MICHAELS PURSUANT TO MD. CODE ANN., PUBLIC SAFETY TITLE 14 AND UPON A FINDING THAT SUCH POSTPONEMENT IS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE AND TO CONDUCT SUCH ELECTION IN A SAFE, ORDERLY, AND EFFICIENT MANNER; PROVIDING THAT THE TITLE OF THIS EMERGENCY CHARTER AMENDMENT RESOLUTION SHALL BE DEEMED A FAIR SUMMARY AND GENERALLY RELATING TO ELECTIONS IN THE TOWN OF ST. MICHAELS.

WHEREAS, pursuant to Article XI-E, § 3 of the Constitution of Maryland, the Commissioners of St. Michaels (the "Commissioners"), as the legislative body of the Town of St. Michaels (the "Town"), are authorized and empowered to amend the Charter of the Town of St. Michaels (the "Charter"); and

WHEREAS, pursuant to Article XI-3, § 4 of the Constitution of Maryland, an amendment to the Charter shall be proposed either by a resolution of the Commissioners or by a petition containing the signatures of at least twenty (20) percent of the registered voters of the Town and filed with the Commissioners; and

WHEREAS, pursuant to Md. Code Ann., Local Gov't §§ 4-302(1) and 4-304, the Commissioners may initiate a proposed amendment or amendments to the Charter by a resolution which, except as otherwise specified in Title 4, Subtitle 3 of the Local Government Article, is adopted in the same manner as other resolutions in the Town by a majority of all the individuals elected to the Commissioners, as the legislative body of the Town, and the same shall be subject to the right of referendum; and

WHEREAS, pursuant to Executive Order No. 20-03-30-02 of the Governor of Maryland (the "March 30th Executive Order"), the Commissioners are authorized and empowered to suspend the effect of a provision of Title 4, Subtitle 3 of the Local Government Article regarding public hearings to be held on a proposed amendment to the Charter or the date such amendment takes effect, provided that the Commissioners provide notice thereof to the Governor of Maryland and upon a finding by the Commissioners that such suspension will not endanger the public health, welfare, or safety and is necessary to amend the date on which a municipal election will be held or the method, conduct, or voting system of a Town election; and

WHEREAS, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed in nearly every Maryland county; and

WHEREAS, on March 18, 2020, the Commissioners passed Ordinance No. 506, entitled "An Emergency Ordinance to Declare a State of Emergency in the Town of St. Michaels as a Result of COVID-19" pursuant to Md. Code Ann., Public Safety § 14-111, as well as the Declaration of State of Emergency and Existence of a Catastrophic Health Emergency declared by the Governor of Maryland on March 5, 2020 and the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak issued by the President of the United States on March 13, 2020; and

WHEREAS, pursuant to §§ C-22, C-30, and C-31 of the Charter, a Town election is scheduled for May 4, 2020, and the deadline for qualified individuals to file a certificate of candidacy and register to vote is the fifth Friday prior thereto, or April 3, 2020; and

WHEREAS, holding the Town election on May 4, 2020 as presently scheduled will jeopardize the public health, safety, and welfare, including but not limited to potentially exposing voters, Town staff, and volunteers to the novel coronavirus that causes COVID-19 and potentially contaminating any Town government building(s) where the election is held, and, as a result, prevent the Town's ability to conduct the election in a safe, orderly, and efficient manner; and

WHEREAS, the Town Clerk/Manager has recommended that the Town election be postponed until at least June 2020, with the deadline for qualified individuals to file a certificate of candidacy and register to vote be extended until the fifth Friday prior to the postponed election date; and

WHEREAS, the Charter does not contain any provisions expressly authorizing the Commissioners to postpone a Town election; and

WHEREAS, the Commissioners are desirous of amending the Charter for the purpose of authorizing the Commissioners to postpone, by resolution, any regular or special Town election when a state of emergency has been declared by the Governor of Maryland, Talbot County, Maryland, and/or the Commissioners pursuant to Md. Code Ann., Public Safety Title 14 and upon a finding that such postponement is necessary to protect the public health, safety, and welfare and to conduct such election in a safe, orderly, and efficient manner; and

WHEREAS, the Commissioners find it necessary to suspend the provisions of Md. Code Ann., Local Gov't § 4-304(a)(2) and (c) regarding the holding of a public hearing prior to adopting a Charter Amendment Resolution and providing that a Charter Amendment Resolution takes effect on the 50th day following adoption; otherwise, the Commissioners would be unable to introduce and subsequently adopt a Charter Amendment Resolution amending the Charter to authorize the Commissioners to postpone a Town election as set forth herein effective prior to the April 3, 2020 deadline for qualified individuals to file a certificate of candidacy and register to vote or the May 4, 2020 Town election; and

WHEREAS, the Commissioners find that the foregoing suspension of the provisions of Md. Code Ann., Local Gov't § 4-304(a)(2) and (c) will not endanger the public health, welfare, or safety; and

WHEREAS, notice of the proposed Charter amendments set forth herein have been provided to the Governor of Maryland as required by the March 30th Executive Order; and

WHEREAS, the Commissioners, to provide for the reasonable and appropriate representation of the citizens of the Town and to provide for the better management and governance of the Town and its affairs, deem it necessary and appropriate for the good government and citizens of the Town to amend certain provisions of the Charter as set forth herein.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that, pursuant to the authority of Article XI-E of the Constitution of Maryland, §§ 4-302(1) and 4-304 of the Local Government Article of the Maryland Annotated Code, and the March 30th Executive Order, the Charter of St. Michaels (as published in Compilation of Municipal Charters, Chapter 128, Vol. 7 (2001 Edition and February 2016 Supplement) be, and the same is hereby, amended as follows:

SECTION 1. Article II, § C-5 of the Charter is hereby amended as follows:

§ C-5 Number of Commissioners; selection; terms.

All legislative powers of the Town shall be vested in a body designated as “The Commissioners of St. Michaels,” consisting of five Commissioners who shall be elected as hereinafter provided and who shall hold office for a term of four years or until their succeeding Commissioners take office, except when a Commissioner is filling a vacancy. A Commissioner appointed or elected to fill a vacancy, as provided in § C-35 of this Charter, may hold office for a term of two years or less, unless an election is postponed pursuant to § C-31(B) of this Charter, in which case such Commissioner shall hold office until his or her successor takes office. The regular term of Commissioners shall expire on the second Wednesday in the month of June following the election of their successors, unless an election is postponed pursuant to § C-31(B) of this Charter, in which case the term of Commissioners shall expire on the second Wednesday in the month following the month in which their successors are elected. Commissioners holding office at the time this Charter becomes effective shall continue to hold office for the term for which they were elected until the succeeding Commissioners take office under the provisions of this Charter. The legislative body of the Town, consisting of five Commissioners, shall sometimes hereafter be referred to as “the Commissioners,” or “the Commission.”

SECTION 2. Article II, § C-8 of the Charter is hereby amended as follows:

§ C-8 Meetings of Commission.

The newly elected Commission shall meet at 5:00 p.m. on the second Wednesday in the month of June following its election, unless an election is postponed pursuant to § C-31(B) of this Charter, in which case the newly elected Commission shall meet at 5:00 p.m. on the second Wednesday in the month following the month in which the Commission is elected, for the purpose of organization, after which the Commission shall regularly meet at such times as may be prescribed by its rules but not less frequently than once each month. Special meetings shall be called by the Town Clerk upon the request of a majority of the members of the Commission. All meetings of the Commission shall be open to the public, except in appropriate circumstances when meetings may be closed in accordance with Subtitle 5 of Title 10 of the State Government

Article, Open Meetings Act, of the Annotated Code of Maryland as amended from time to time. The rules of the Commission shall provide that residents of the Town shall have a reasonable opportunity to be heard at any meeting open to the public in regard to any municipal question.

SECTION 3. Article II, § C-10 of the Charter is hereby amended as follows:

§ C-10 Officers of the Commission.

The newly elected Commissioners shall take office on the second Wednesday in the month of June following a regular election; provided, however, if an election is postponed pursuant to § C-31(B) of this Charter, the newly elected Commissioners shall take office on the second Wednesday in the month following the month of their election. At the first regular meeting in June of each year, or following an election that has been postponed pursuant to § C-31(B) of this Charter, the five Commissioners shall have an election of officers. The five Commissioners shall choose one of their number for the positions of President, Vice President and Treasurer; the newly elected officers shall serve a term of one year or until successors have been duly elected and take office.

SECTION 4. Article IV, § C-31 of the Charter is hereby amended as follows:

§ C-31 Election of Commissioners.

(A) All regular elections of the Town shall be held on the first Monday in May in even-numbered years. Beginning with the election to be held in May 1996, and every four years thereafter, three Commissioners shall be elected for terms of four years each. Beginning with the election in May 1998, and every four years thereafter, two Commissioners shall be elected for terms of four years each. In the case of some vacancies, Commissioners may be elected for terms of two years as provided in § C-35 of this Charter.

(B) When a state of emergency has been declared by the Governor of Maryland, Talbot County, Maryland, and/or the Commissioners pursuant to Title 14 of the Public Safety Article of the Annotated Code of Maryland, the Commissioners may, by resolution, postpone any regular or special election if the Commissioners find that such postponement is necessary to protect the public health, safety, or welfare and to conduct the election in a safe, orderly, and efficient manner. Any election postponed hereunder shall be postponed until such time as the emergency conditions giving rise to the state of emergency have abated or such election can be conducted in a safe, orderly, and efficient manner and will not endanger the public health, safety, or welfare. The Town Clerk shall give public notice of a resolution postponing any regular or special election by publishing once a week for two consecutive weeks in a newspaper of general circulation in the Town, with the first publication occurring as soon as practicable following the Commissioners' adoption of the resolution.

SECTION 5. Article IV, § C-35 of the Charter is hereby amended as follows:

§ C-35 Vacancies.

A. In case of a vacancy that occurs more than 90 days before the next regular election of Commissioners:

- (1) The Commissioners shall appoint some qualified person to fill the vacancy, who shall enjoy and exercise the same voting rights and privileges as those enjoyed and exercised by Commissioners elected to office.
 - (a) Appointments shall be made upon a favorable vote by a majority of the remaining Commission members. The result of the vote shall be recorded in the minutes of the Commission.
 - (b) The term of a Commissioner so appointed shall expire on the second Wednesday in the month of June following the next regular election of Commissioners, except as set forth in §§ C-5 and C-31(B) of this Charter.
 - (c) If the original term of the vacancy filled by appointment does not expire following the next regular election, the remaining two years of the term shall be placed on the ballot and shall be filled by the winning candidate with the least number of votes.
 - (2) If the Commission fails to make an appointment within 30 days following the occurrence of the vacancy, the Town Clerk shall call a special election to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence. The special election shall be governed by the provisions of this Charter.
 - (a) If a regular election will occur during the period from 90 days to 120 days following the occurrence, the special election shall be held with the regular election.
 - (b) If a vacancy is filled by special election, the newly elected Commissioner shall serve for the remainder of the vacant term, even in the event that the term may extend beyond the next regular election of Commissioners.
- B. In the case of a vacancy that occurs 90 days or less before the next regular election of Commissioners, the vacancy shall remain unfilled until the election. If the vacancy was for a term not expiring immediately following the election, the winning candidate with the least number of votes shall fill the remaining term of two years.

SECTION 6. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that, in this Resolution, unless a section of the Charter is expressly repealed in its entirety and reenacted, new or added language is underlined and deleted text is enclosed in double parentheses. Language added after the date of introduction is in italicized type and text deleted after the date of introduction is enclosed in bold brackets.

SECTION 7. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that if any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Resolution, it being the intent of the Council that this Resolution shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 8. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that to the extent that any section of the Charter is in conflict with the provisions of Sections 1 through 5 of this Resolution, such section or sections be and hereby are repealed to the extent of such conflict.

SECTION 8. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that the Charter amendments adopted by this Resolution shall become effective immediately upon adoption; provided, however, that if a proper petition for a referendum hereon shall be filed on or before the fortieth (40th) day after adoption, the effect of the Charter amendments adopted by this Resolution shall be suspended pending a referendum as set forth in Md. Code Ann., Local Gov't §§ 4-304(d)(5) and (6) and 4-307. A complete and exact copy of this Resolution shall be posted at the Edgar M. Bosley, Jr. Municipal Building, 300 Mill Street, St. Michaels, Maryland 21663, or another main municipal building or public place, for a period of at least forty (40) days following its adoption, and the title to this Resolution, being a fair summary of the Charter amendments adopted hereby, shall be published in a newspaper of general circulation in the Town not less than four (4) times, at weekly intervals within a period of at least forty (40) days, starting immediately after the date of its adoption.

SECTION 9. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that upon the earlier of the forty-first (41st) day following adoption of this Resolution or the effective date of the Charter amendments adopted by this Resolution following a referendum, the Town Clerk/Manager or the Town's chief executive officer shall send by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the Department of Legislative Services of the State of Maryland, the following documents or information concerning the Charter amendments herein: (1) the complete text of this Resolution; (2) the date of the referendum election, if any, held with respect thereto; (3) the number of votes cast for or against this Resolution by the Council or in a referendum; and (4) the effective date of the Charter amendments.

SECTION 10. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that the Town Clerk/Manager is hereby authorized and directed to carry out the provisions of Sections 8 and 9 hereof; and as evidence of compliance herewith, the Town Clerk/Manager shall cause to be affixed to the minutes of the Commissioners for the meeting at which this Resolution is adopted: (1) a certificate to the effect that this Resolution was duly and properly posted as provided in Section 8 herein; (2) an appropriate certificate of publication in the newspaper in which the fair summary of the Charter amendments herein shall have been published as provided in Section 8 herein; and (3) the return receipt of the mailing as provided in Section 9 herein; provided, however, that failure to comply with any of the foregoing shall not invalidate this Resolution.

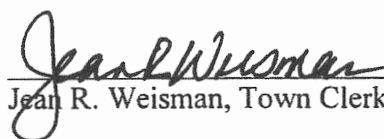
THIS EMERGENCY CHARTER AMENDMENT RESOLUTION HAVING BEEN INTRODUCED at a Public Meeting on the 1st day of April, 2020 and ADOPTED by a yea and nay vote of the Commissioners of St. Michaels at a Public Meeting held on the 1st day of April, 2020 at 1:00 o'clock p.m., in the meeting room of the Town Office of St. Michaels, Maryland.

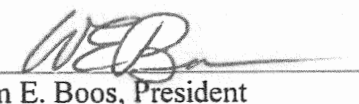
Boos	-	_____yea_____
Bibb	-	_____yea_____
Harrod	-	_____yea_____
Windon	-	_____yea_____
Glackin	-	_____yea_____

I HEREBY CERTIFY that the above Emergency Charter Amendment Resolution No. 2020-01 was introduced on April 1, 2020 and adopted by a yea and nay vote of the Commissioners of St. Michaels on the 1st day of April, 2020.

ATTEST:

THE COMMISSIONERS OF ST. MICHAELS


Jean R. Weisman, Town Clerk/Manager

By:  (Seal)
William E. Boos, President