

**RESOLUTION FOR AN AMENDMENT
TO THE CHARTER OF THE
TOWN OF HURLOCK, MARYLAND**

CHARTER AMENDMENT RESOLUTION NO. 2019-3

Introduced By: Councilmember Cephas

**A RESOLUTION OF THE COUNCIL OF THE TOWN OF HURLOCK
TO AMEND THE POWERS AND DUTIES OF THE TOWN MANAGER.**

WHEREAS, Article VIII provides for the appointment of and the powers and duties of the Town Manager, which the Council of the Town of Hurlock has determined that it is in the best interests of the Town to amend to improve the efficiency and oversight of the management of the Town; and

WHEREAS, pursuant to Article XI-E, Section 4 of the Constitution of Maryland, Section 4-301 et seq. of the Local Government Article of the Annotated Code of Maryland, and the Charter of the Town of Hurlock, the Council of the Town of Hurlock is hereby authorized to amend the Charter of the Town of Hurlock.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF HURLOCK, that the following amendment to the Charter of the Town of Hurlock is hereby proposed, and upon completion of the requirements of Article XI-E, Section 4 of the Constitution of Maryland, Section 4-301 et seq. of the Local Government Article of the Annotated Code of Maryland, and the Charter of the Town of Hurlock, the Charter of the Town of Hurlock shall be amended as follows:

KEY

Bolded and Underscored.....Provisions to be added to the existing Charter.

~~Bolded and Strikethrough~~.....Provisions to be repealed from the existing Charter.

....

**ARTICLE VIII
Administration**

Section 801. Town Manager.

....

b. *Appointment and Qualifications of Town Manager.* The Town Manager shall be appointed by a majority vote of the Town Council upon the recommendation of a search committee for a term or at will and under conditions as may be agreed to by the Town Council.

(1) The Town Manager shall be selected solely on the basis of executive and administrative qualifications with special reference to actual experience in and knowledge of accepted practices in respect to the duties of the office hereinafter set forth.

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(5) No Mayor or Councilmember shall receive such appointment as Town Manager or acting Town Manager during the term for which the Mayor or Councilmember shall have been elected, ~~or within one year after the expiration of the mayor's or councilmember's term~~ unless the Mayor or Councilmember has prior thereto or concurrently with his or her appointment as Town Manager or acting Town Manager resigned as the Mayor or Councilmember of the Town.

(6) The search for a Town Manager shall be conducted by a search committee made up of five (5) individuals appointed by the Town Council, who shall be appointed ~~within thirty (30) days of the enactment of this legislation and thereafter~~ within thirty (30) days of the Town Manager position becoming vacant. The Mayor shall chair and be a voting member of the search committee. The search committee may obtain additional assistance and resources in the search process upon a majority vote of the Town Council. The individuals appointed by the Town Council as members of the search committee shall be residents of the ~~Town or of Dorchester County~~ State of Maryland, or be owners of businesses located in the ~~Town~~ State of Maryland, or be persons who live elsewhere but have a second home in the ~~Town or Dorchester County~~ State of Maryland who possess considerable expertise related to the search process.

c. *Removal from Office.*

(1) The Town Manager shall hold office subject to the vote to remove him or her by four (4) of the six (6) elected officials of the Town – the Mayor and the Town Council as a body – which vote shall be made at an official meeting of the Mayor and Town Council duly called. The final resolution of removal may be made effective immediately, or at any time after five (5) days from the date on which a copy of the preliminary resolution required in subsection (c)(2) below is delivered to the Town Manager, ~~subject to the right of the Town Manager to a hearing as set forth in subsection (c)(3) herein below.~~

....

(3) ~~The Town Manager shall have the right to a private or a public hearing on the removal resolution, which right must be exercised by him or her making a written request for same to the Mayor and the Town Council as a body, within five (5) days of receipt of said resolution. This hearing shall be held at a meeting of the Mayor and Town Council as a body not sooner than fifteen (15) days, nor later than thirty (30) days, after the request is filed. The Town Manager may also file with the Town Council a written reply not later than five (5) days before any scheduled hearing.~~ Neither the Town Manager nor the Mayor and the Town Council shall be permitted to file legal action regarding the Town Manager's removal from office without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediation and the mediator, if any, shall be paid 50% by the Town Manager and 50% by the Mayor and the Town Council. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.

(4) ~~Nothing herein shall prevent the Town Manager from accepting the proposed removal or termination of his or her contract without a hearing.~~

(5) ~~If the Town Manager requests a hearing pursuant to subsection (c)(3) hereinabove, the Town Council may, by majority vote, suspend with pay the Town Manager from duty pending the outcome of the removal hearing and consistent with the terms of the Town Manager's employment agreement.~~

(6) The suspension or removal of the Town Manager shall not be subject to any administrative appeal.

(7) ~~(5)~~ If a **the** Town Manager becomes disabled, is temporarily absent from the Town for a length of time that may interfere with the efficient running of the Town, is suspended, removed, or resigns, or completes his or her term as may be agreed to in his or her contract of employment, **if any**, and is not reappointed, ~~or prior to the appointment of the first Town Manager under this Charter,~~ the Town Council may appoint an acting Town Manager. Any acting Town Manager shall hold office for a period of time not to exceed six (6) months, subject to the affirmative vote by a majority of the Mayor and the Town Council, with the Mayor having a vote, to remove the acting Town Manager or to extend his or her term. No notice of removal ~~or hearing~~ as allowed for a Town Manager under subsections (c)(1) **and**

(2) ~~and (3)~~ above is required for removing an acting Town Manager. If an acting Town Manager is removed, the Town Council may appoint his or her replacement. An acting Town Manager shall possess the qualifications as set forth in subsections (b)(1), and (b)(2) or (b)(3) above.

d. *Powers and Duties of the Town Manager.* The Town Manager shall be the chief executive officer of the Town and the head of the administrative branch of the Town, and may head one or more departments, and shall be responsible to the Mayor and the Town Council as a body, for the proper administration of all affairs of the Town. He or she shall serve as the chief personnel officer for the Town, which shall include all matters regarding human resources. Subject to sufficient appropriations, the Town Manager may appoint an assistant director of human resources to assist him or her in these responsibilities and may appoint a ~~f~~Finance ~~d~~Director. To these ends the Town Manager shall have the power and shall be required to:

(1) With the exception of the Town Attorney, who shall be appointed, suspended, and/or removed directly by the Mayor, with the advice and consent approval of the Council, ~~when necessary for the good of the Town, appoint~~, suspend or remove any department head with the advice and consent of the Town Council. The Town Manager may hire, suspend or remove any employee, or may authorize any department head to exercise these powers with respect to subordinates within that department head's department, with the prior approval of the Town Manager.

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(3) Be the chief financial officer of the Town and:

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(iii) Review all reports of a ~~f~~Finance ~~d~~Director regarding the collection of taxes, special assessments, license fees, liens, and all other revenues (excluding utility revenues) of the Town, and all other revenues for whose collection the Town is responsible;

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(v) With the assistance of a ~~f~~Finance ~~d~~Director, if any, prepare the Town budget and capital program annually and submit them to the Mayor and the Town Council as a body with a message describing the important features and be responsible after adoption for the administration and implementation of the final

budget and any capital program approved by Town Council to achieve the goals of the Town;

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g. *Bond.* The Town Manager ~~shall~~ may, if required by the Town Council, furnish a surety bond to be approved by the Town Council, said bond, if required by the Town Council, to be conditioned on the faithful performance of all the duties of the Town Manager. The premium ~~of the~~ on any such bond shall be paid by the Town.

h. *Compensation.* The Town Manager shall receive such compensation as specified by the Town Council. The Town Manager's compensation may be specified shall fix pursuant to the terms of any contract of employment entered into between the Town and the Town Manager ~~as provided for in a formal employment agreement.~~ The Town Manager's compensation shall not be reduced unless such a contingency is included in any such contract of formal employment ~~agreement~~ and all Town employees' compensation is reduced. ~~Any reduction will be covered by the terms of the formal employment agreement. If no contract of employment has been entered into between the Town Manager and the Town, the Town Manager's compensation shall not be reduced during the Town Manager's continued employment with the Town as the Town Manager.~~

i. *Personnel Duties.*

(1) All subordinate officers and employees of the offices, departments, and agencies of the Town shall be appointed by the Town Manager. All subordinate officers and employees may be removed and/or discharged by the Town Manager, or the applicable department head with the prior approval of the Town Manager.

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j. *Transitional Powers.* ~~The Clerk-Treasurer shall continue to serve in that capacity and shall retain the traditional powers and duties of the Clerk-Treasurer until such time as a Town Manager or acting Town Manager has been appointed as provided herein.~~

k. ~~*Savings Clause.* If any section, subsection, sentence, clause, or phrase of this Charter is for any reason held invalid, such decision or decisions shall not affect the validity of the remaining portions of this Charter. All ordinances of the Town prescribing the duties of heads of departments shall remain in full force and effect except in so far as they conflict with the provisions of this Charter in which case the provisions of this Charter shall govern.~~

~~I. — *Effective Date.* The effective date of this Charter provision shall be the effective date of Charter Amendment Resolution No. 2017-2. (Res. No. 2017-2, 6-12-2018)~~

....

....

AND BE IT FURTHER RESOLVED that upon passage or adoption of this Resolution by the Council of the Town of Hurlock, the Town Manager, at the direction of the Mayor of the Town of Hurlock, shall: (a) post a complete and exact copy of this Resolution, containing the proposed amendments, at the Town Office on the public bulletin board for a period of at least forty (40) consecutive days following its adoption; and (b) cause a fair summary of the proposed amendment, as contained herein, to be published not less than four (4) times, at weekly intervals within a period of at least forty (40) days after adoption of this Resolution, in a newspaper of general circulation in the Town.

AND BE IT FURTHER RESOLVED that this Resolution having been passed by the Council of the Town of Hurlock on September 9, 2019, shall be considered a part of the Charter of the Town of Hurlock, according to the terms of the amendments and in all respects shall become effective upon the fiftieth (50th) day after being so ordained or passed, that is to say becoming effective on October 29, 2019 unless a proper Petition for Referendum shall have been filed as provided for in Section 4-304 of the Local Government Article of the Annotated Code of Maryland, on or before the fortieth (40th) day after passage of this Resolution.

AND BE IT FURTHER RESOLVED that the Town Manager, at the direction of the Mayor of the Town of Hurlock, shall cause to be affixed to this Charter Amendment Resolution a certificate of publication of the newspaper in which such fair summary of the amendments appearing herein shall have been published and, if there is no timely and properly filed Petition for Referendum, the Town Manager, at the direction of the Mayor of the Town of Hurlock, shall declare the Charter Amendment herein contained to be effective on the effective date as indicated above by the Town Manager properly executing this Resolution in the appropriate space provided below.

AND BE IT FURTHER RESOLVED that if a proper Petition for Referendum is timely filed, the Council of the Town of Hurlock, with the assistance of the Mayor of the Town of Hurlock and the Town Manager, shall comply with the requirements of Section 4-304 of the Local Government Article of the Annotated Code of Maryland, and shall set a date and hours for the Referendum on this Charter Amendment Resolution.

AND BE IT FURTHER RESOLVED that before the Charter Amendment hereby proposed and passed shall become effective, either as herein provided or following a referendum, the Town Manager, at the direction of the Mayor of the Town of Hurlock, shall promptly register the Charter Amendment with the Director of the Hall of Records by sending by registered mail, return receipt requested, to the Maryland Department of Legislative Services, a complete certified copy of the text of this Resolution, the date of the referendum, if any is held, a certificate showing the number of Councilmembers voting for and against the Charter Amendment hereby enacted or

the number of votes cast in any referendum hereon, and the effective date of the Charter Amendment, and affixing the return receipt hereto.

THIS RESOLUTION HAVING BEEN INTRODUCED unto the Council of the Town of Hurlock at a regular meeting of the Mayor and Council of the Town of Hurlock on July 8, 2019 and approved by a majority vote of the Council of the Town of Hurlock on September 9, 2019.

ATTEST:

THE MAYOR AND COUNCIL OF
THE TOWN OF HURLOCK

[Signature]
John Avery, Town Manager

By: [Signature] (SEAL)
Michael Henry, Mayor

CERTIFICATIONS

CHARTER AMENDMENT RESOLUTION NO. 2019-3 HAVING BEEN PASSED by a majority yea vote of THE COUNCIL OF THE TOWN OF HURLOCK on September 9, 2109 as follows:

Councilmembers casting a **yea** vote for the Resolution:

Rev. Charles T. Cephas

Charles Cummings

Bonnie Franz

Earl Murphy, Jr.

Russell Murphy, Jr.

Councilmembers casting a **nay** vote against the Resolution:

I HEREBY CERTIFY that Charter Amendment Resolution No. 2019-3 was passed by a ye
and nay vote of the Council of the Town of Hurlock, by a vote of 5 – 0 in favor of the Resolution on
September 9, 2019.

WITNESS:

Bobbi Jo Bell

John Avery (SEAL)
John Avery, Town Manager

I HEREBY CERTIFY that an exact copy of the foregoing Charter Amendment Resolution
No. 2019-3 was posted on the bulletin board in the Town Office on Sept 10, 2019
at 2:00 p.m. and was there continuously posted for at least
forty (40) consecutive days, said posting having been terminated on NOV. 1, 2019
at 2:00 p.m.

WITNESS:

Bobbi Jo Bell

John Avery (SEAL)
John Avery, Town Manager

I HEREBY CERTIFY that a summary of the foregoing Charter Amendment Resolution No.
2019-3 was published in the Star Democrat, a newspaper of general circulation in the Town of
Hurlock, not less than four (4) times, at weekly intervals within a period of forty (40) days after the
adoption of this Resolution, as evidenced by the attached Certificate of Publication issued by the
newspaper. Said dates of publication were as follows: 10/2/19, 10/9/19, 10/16/19
& 10/23/19

WITNESS:

Bobbi Jo Bell

John Avery (SEAL)
John Avery, Town Manager

I HEREBY CERTIFY that the foregoing Charter Amendment Resolution No. 2019-3 became effective on October 29, 2019 without a Petition for Referendum and Referendum Vote having been held thereon.

WITNESS:

Bobbie Bell

John Avery (SEAL)
John Avery, Town Manager

I HEREBY CERTIFY that a copy of the foregoing Charter Amendment Resolution No. 2019-3 was mailed by certified mail, return receipt requested, to the Maryland Department of Legislative Services in accordance with Sections 4-109 and 4-308 and any other applicable sections of the Local Government Article of the Annotated Code of Maryland on February 5th, ~~2019~~
2020, as evidenced by the attached receipt from the U.S. Postal Service.

[This Charter Amendment Resolution should be mailed to the Maryland Department of Legislative Services 50 days or later after enactment.]

WITNESS:

Bobbie Bell

John Avery (SEAL)
John Avery, Town Manager