



CHARTER AMENDMENT RESOLUTION 20-02

**CHARTER AMENDMENT RESOLUTION
OF THE CITY COUNCIL OF NEW CARROLLTON AMENDING THE
CHARTER OF THE CITY OF NEW CARROLLTON, § C-3 "GOVERNMENT OF
THE CITY" TO CHANGE THE METHOD OF FILLING VACANCIES IN THE
OFFICE OF THE MAYOR AND ANY COUNCIL MEMBER**

WHEREAS, pursuant to the authority contained in Article XI-E, §4 of the Constitution of the State of Maryland and Md. Code Ann., Local Gov't Art., §4-301 et seq., the City Council of New Carrollton has the authority to amend the City's Charter, in accordance with the procedures set forth therein; and

WHEREAS, based upon the City of New Carrollton's recent experience of losing a Council member approximately 125 days prior to a City election, the City Board of Elections has requested that the City Council review the process of filling vacancies, particularly when it requires the City to conduct a special election and a regular City election back to back; and

WHEREAS, the City Council of New Carrollton deems it to be necessary and appropriate for good government and for the good of the conduct of City of New Carrollton elections to amend the City Charter accordingly.

Section 1: NOW, THEREFORE, BE IT RESOLVED by the City Council of New Carrollton, that the Charter of the City of New Carrollton, §C-5 "Board of Elections" shall be and is hereby amended to read as follows:

§ C-3 Government of the City.

A. Election and terms of office. The government of the City shall be vested in a Mayor and a Council of five (5) members, elected at large. On the first Monday in May of each even-numbered year, there shall be a general election as herein provided, at which a Mayor and two (2) Councilmembers shall be elected to two-year terms, except that in the year 2020 a Mayor and two Councilmembers will be elected to serve one three-year term. On the first Monday in May of each odd-numbered year through and including May 3, 2021, there shall be a general election as herein provided, at which three (3) Councilmembers shall be elected for two-year terms. Commencing with the 2023 City election, there shall be no more staggered terms and a Mayor and Council of five members shall be elected to two-year terms on the first Monday in May 2023 and in every odd-numbered year thereafter.

B. Tenure of elected officials; vacancies.

(1) Tenure of elected officials. All elected officials provided for in this Charter shall assume the duties of their respective offices as soon after their appointment or election as practicable and, unless they resign or are removed for cause, shall continue to serve until their successors are duly elected and installed. The term of each elected official shall begin with the first regular meeting of the Council following his or her election and shall continue until the first regular meeting of the Council following the election of his or her successor.

(2) [Mayor vacancy: If a vacancy occurs in the office of the Mayor more than one hundred twenty (120) days before the next general election, the Mayor Pro-Tem shall serve as Mayor for a period not to exceed sixty (60) days, during which time a special election for the office of Mayor shall be held to determine a successor. If a vacancy occurs in the office of Mayor one hundred [twenty (120) days, or less from the next general election, the Mayor Pro-Tem shall serve as Mayor until a new Mayor is elected at such general election.

(3) Councilmember vacancy: If a vacancy occurs in the office of Councilmember, more than one hundred twenty (120) days before a general election, a special election shall be scheduled within sixty (60) days of the date of such vacancy to fill the position of Councilmember. If such vacancy occurs one hundred twenty (120) days or less before the next general election, the Councilmember shall not be replaced until the next general election.] **VACANCIES**

(A) IN THE EVENT THAT THE OFFICE OF MAYOR OR ANY COUNCIL MEMBER SHALL BECOME VACANT FOR ANY CAUSE OTHER THAN THE EXPIRATION OF THE TERM FOR WHICH THE INCUMBENT WAS ELECTED, SUCH VACANCY SHALL BE FILLED AS FOLLOWS:

(I) IF IT OCCURS MORE THAN 180 DAYS BEFORE THE NEXT GENERAL ELECTION, THE VACANCY SHALL BE FILLED BY SPECIAL ELECTION HELD NOT LATER THAN 65 DAYS AFTER THE VACANCY EXISTS.

(II) IF IT OCCURS ON OR WITHIN 180 DAYS OF, BUT NOT LATER THAN 90 DAYS BEFORE, THE NEXT GENERAL ELECTION, THE VACANCY SHALL BE FILLED BY APPOINTMENT OF THE MAYOR AND COUNCIL, BY MAJORITY VOTE, WITHIN 30 DAYS AFTER THE VACANCY SHALL HAVE OCCURRED. IF THE APPOINTMENT IS NOT MADE WITHIN THAT TIME, THE POSITION SHALL REMAIN VACANT UNTIL THE NEXT ELECTION.

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- (III) IF IT OCCURS WITHIN 90 DAYS OF THE NEXT GENERAL ELECTION, THE POSITION SHALL REMAIN VACANT UNTIL A SUCCESSOR IS ELECTED AT SAID ELECTION.
- (B) UPON IT BECOMING NECESSARY TO FILL A VACANCY IN THE OFFICE OF MAYOR OR COUNCIL MEMBER PURSUANT TO SUBSECTION B(2)(A) ABOVE, THE CITY CLERK SHALL GIVE PUBLIC NOTICE OF THE VACANCY, CONTAINING THE QUALIFICATIONS OF THE OFFICE, THE PROCEDURE TO APPLY FOR APPOINTMENT TO THE VACANCY OR TO BE PLACED ON THE SPECIAL ELECTION BALLOT, AS APPROPRIATE, AND THE DEADLINE FOR APPLICATIONS. APPLICATIONS FOR APPOINTMENT AND APPLICATIONS TO BE PLACED ON THE SPECIAL ELECTION BALLOT SHALL BE FORWARDED BY THE CLERK TO THE BOARD OF ELECTIONS, WHO SHALL REVIEW THE APPLICATIONS FOR THE PURPOSE OF DETERMINING THE QUALIFICATIONS OF THE CANDIDATES. THE APPLICATION SHALL INCLUDE A PETITION IN A FORM SATISFACTORY TO THE BOARD OF ELECTIONS CONTAINING THE NAMES, ADDRESSES AND SIGNATURES OF NOT LESS THAN 10 REGISTERED VOTERS RESIDING IN THE CITY, INDICATING SUPPORT OF THE APPLICANT'S CANDIDACY.
- (C) FOR VACANCIES TO BE FILLED BY APPOINTMENT, THE MAYOR AND COUNCIL SHALL REVIEW THE APPLICATIONS AT THE NEXT REGULAR MEETING AFTER THE DEADLINE OR AT A MEETING SPECIALLY CALLED FOR THAT PURPOSE. A VOTE ON THE NOMINEE OR NOMINEES SHALL BE TAKEN WITH NO NOMINATIONS BEING ALLOWED FROM THE FLOOR. SHOULD NO NOMINEE RECEIVE A MAJORITY OF THE VOTES CAST, A SECOND VOTE SHALL BE CONDUCTED BETWEEN THE TWO NOMINEES RECEIVING THE HIGHEST NUMBER OF VOTES. THE NOMINEE RECEIVING A MAJORITY VOTE SHALL THEREBY BE APPOINTED TO FILL THE VACANCY.
- (D) THE QUALIFICATIONS NECESSARY TO QUALIFY FOR ELECTION AS MAYOR OR COUNCIL MEMBER, AS SET FORTH IN § C-4 OF THE CITY CHARTER, SHALL ALSO APPLY TO AN APPLICATION FOR APPOINTMENT OR TO BE PLACED ON THE SPECIAL ELECTION BALLOT FOR THE OFFICE OF MAYOR OR COUNCIL MEMBER UNDER THIS SECTION. AN APPLICANT FOR APPOINTMENT OR TO BE PLACED ON THE SPECIAL ELECTION BALLOT UNDER THIS SECTION SHALL

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POSSESS ALL THE REQUIRED RESIDENCY QUALIFICATIONS IN § C-4 AS OF THE DATE OF FILING THE APPLICATION FOR THE VACANCY AND SHALL MAINTAIN THOSE QUALIFICATIONS DURING THE TERM. ANY NOMINEE NOT POSSESSING THE REQUIRED QUALIFICATIONS SHALL BE DISQUALIFIED. THE NOMINATING PETITION REQUIREMENTS OF § C-7 OF THE CHARTER SHALL NOT APPLY TO SPECIAL ELECTIONS UNDER THIS SECTION. THE OATH OF OFFICE SHALL ALSO BE THE SAME, AND THE APPOINTEE OR INDIVIDUAL ELECTED SHALL RECEIVE THE COMPENSATION PROVIDED BY LAW FOR SUCH OFFICE.

([4]E) In the event of a special election for the position of Mayor or a Councilmember such persons elected at such special election shall be sworn in and installed at the first regular meeting of the City Council following such special election.

C. Mayor: powers and duties.

(1) The Mayor shall be the Chief Executive Officer of the City and the head of the administrative branch of the City government. As such, the Mayor shall be responsible for and direct the day-to-day operations of the City and shall supervise the activities of the various City officers and department heads. Immediately after his/her election, the Mayor shall appoint the following, which shall be subject to confirmation by the Council: The Chief of Police, the Director of Public Works, the City Administrative Officer, and such other heads of all offices, departments, and agencies of the City government as established by this Charter or by ordinance. All office, department and agency heads shall serve at the pleasure of the Mayor and may be removed by the Mayor. All subordinate officers and employees of the offices, departments and agencies of the City government shall be appointed and removed by the Mayor in accordance with rules and regulations in any personnel policies that may be adopted by the Council. The Mayor shall also have the power to hire a City Attorney, either an individual or a firm, with the approval of the Council. The City Attorney shall be an independent contractor of the City and not an employee.

(2) The Mayor shall be responsible for enforcing the ordinances and carrying out the policies of the City. The Mayor shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him or her by this Charter, by the ordinances of the City and by policy or directive of the Council. The Mayor shall be the Chief Financial Officer of the City. As such, the Mayor shall have complete supervision over the financial administration of the City government. The Mayor shall prepare or have prepared annually a budget and submit it to the Council as provided for in § C-14. The Mayor shall supervise the administration of the budget as adopted by Council. The Mayor shall supervise the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded. He or she shall be

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recognized as the head of the City government for all ceremonial purposes, by the courts for serving civil process and by the Governor of the State of Maryland for the purpose of military law.

(3) The Mayor shall have the power to veto ordinances passed by the Council as provided in § C-10 of this Charter. The Mayor shall exercise the same veto powers over any resolution in the same manner provided for the veto of ordinances. The Mayor shall provide to the Council such staff assistance and such information concerning the administrative branch of the government as the Council may require for the exercise of its legislative powers and duties. The Mayor or his or her representative shall attend all public meetings of the Council. The Mayor may recommend to the Council such measures for legislative action as he or she may deem to be in the best interests of the City. The Mayor each year shall report to the Council the condition of municipal affairs and make such recommendations as she or he deems proper for the public good and the welfare of the City. The Mayor shall receive such salary or compensation as the Council shall fix, except that no increase or decrease shall go into effect until approved by the voters at the next general election. The Mayor shall not hold any other office of the municipal corporation during his or her term of office. At the first meeting of each new Council, there shall be elected by the Council a member to be designated as Mayor Pro Tem. In case of the temporary absence of the Mayor 1) for a period of more than three (3) business days when the Mayor is unable to perform duties that cannot await his/her return or cannot be performed by telephone or other type of communication, or 2) due to the hospitalization or disability of the Mayor that would render him or her unable to perform the duties of the office, the Mayor Pro Tem shall act as Mayor during such absence but shall not have the authority to veto ordinances or appoint or remove appointees or employees, yet shall retain voting privileges and legislative powers and duties as conferred and found in the City Charter. If the hospitalization or disability of the Mayor extends beyond thirty (30) calendar days, then, in that event, the Mayor Pro-Tem shall have the authority to veto ordinances and appoint or remove employees throughout the term of the hospitalization or disability. When the Mayor Pro-Tem is acting as Mayor beyond the above referenced thirty-day period, the Acting Mayor shall not retain voting privileges.

D. Council: powers and duties. The Council shall be the legislative body of the City and shall exercise such powers and perform such duties as are or may be conferred upon it by the General Assembly, by this Charter, and by all ordinances, resolutions and policies of the City consistent with the provisions of this Charter and not contrary to the Constitution and laws of the State of Maryland or the power of the Mayor. The members of the Council shall receive such salary or compensation as the Council shall fix, provided that any increase in salary or compensation voted by the Council shall not go into effect until approved by the voters at the next general election. At the first meeting of each new Council, the Council shall elect from among its members a Chairperson and a Vice Chairperson. The Chairperson of the Council will act as presiding officer during meetings of the Council, and will be responsible for approving the content of City Council meeting agendas. The Vice Chairperson of the Council will act in the capacity of Chairperson during the Chairperson's temporary absence. In the absence of the Chairperson and Vice

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Chairperson, a Councilmember other than the Mayor Pro Tem and Alternate Treasurer will act as presiding officer during meetings of the Council.

E. Other officers. Any appointed officer of the City may be required by the Council to file such bond as may be deemed necessary to guarantee the faithful performance of his or her duties. The Council shall designate one of its members as Alternate Treasurer, who shall perform all of the duties of the Treasurer in the event of the Treasurer's temporary absence or disability. The appointed officers of the City shall receive such compensation for the discharge of their duties and such expense allowances as the Council may determine. If at any time the City Administrative Officer's position is vacant for any reason, the Acting City Administrative Officer until such time as the Council confirms a City Administrative Officer provided that the Mayor recommends to the Council at least two people for the position of City Administrative Officer within the aforementioned nine-month timeframe.

F. Oath of office.

(1) Every Councilmember, the Chief of Police, the Director of Public Works, the City Administrative Officer, the Treasurer, the members of the Ethics Commission and the members of the City Board of Appeals shall, before entering upon the duties of his or her office, take and subscribe to the following oath or affirmation to be made before the Mayor, a signed copy to be filed and kept in the office of the City Administrative Officer:

"I,....., swear (or affirm) that I will support the Constitution of the United States, that I will be faithful and bear true allegiance to the State of Maryland and support the Constitution and laws thereof, and that I will, without partiality or prejudice, execute the office of of the City of New Carrollton, according to the Constitution and laws of this State and the Charter of this City."

(2) The Mayor shall, before entering upon the duties of his or her office, take and subscribe to the same oath before the Clerk of the Circuit Court for Prince George's County, Maryland, or before one of his or her sworn deputies.

G. Citizen advisory boards. The Mayor or the Council may appoint, for designated periods, one (1) or more temporary boards of citizens of the City who shall assist in the consideration of City policies and programs, provided that the Council must approve of any public funds expended by such advisory boards in the execution of their charge.

H. Definitions. The terms "City," "municipality" or "municipal corporation," when used in this Charter, shall be synonymous and shall refer to the "City of New Carrollton." The terms "Mayor" and "Council," when used in this Charter, shall refer to the Mayor of the City of New Carrollton and to the City Council of the City of New Carrollton, respectively.

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Section 2: NOW, THEREFORE, BE IT FURTHER RESOLVED by the City Council of New Carrollton that if any provision of this Charter Amendment Resolution or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Charter Amendment Resolution that can be given effect without the invalid provision or application, and for the purpose the provision of this Charter Amendment Resolution are declared severable.

Section 3: BE IT FURTHER RESOLVED that this Charter Amendment Resolution is adopted this 15th day of January, 2020, and that the amendments to the Charter of the City of New Carrollton, hereby proposed by this enactment, shall be and become effective fifty (50) days after its passage by the City unless petitioned to referendum in accordance with the Local Government Article of the Annotated Code of Maryland within 40 days following its passage. A fair summary of this Resolution shall be posted in the City Hall for forty (40) days following its adoption and published in a newspaper having general circulation in the City no fewer than four (4) times at weekly intervals within the forty (40) days following its passage by the City.

Section 4: BE IT FURTHER RESOLVED that prior to the adoption of this Charter Amendment Resolution, the City Council of New Carrollton conducted a public hearing on the proposed amendment on the 15th day of January, 2020, after at least 21 days' advance notice of the public hearing.

Section 5: BE IT FURTHER RESOLVED that as soon as the Charter Amendment Resolution hereby enacted becomes effective, either as herein provided or following referendum, the City Administrative Officer shall send to the Department of Legislative Services, the following information concerning the Charter Amendment Resolution: (i) the complete text of this Resolution; (ii) the date of referendum election, if any, held with respect thereto; (iii) the number of votes cast for and against this Resolution by the City Council of New Carrollton or in a referendum; and (iv) the effective date of the Charter Amendment.

Section 6: BE IT FURTHER RESOLVED that the City Administrative Officer of the City of New Carrollton, Maryland be, and hereby is specifically instructed to carry out the provisions of Sections 4 and 6 as evidence of compliance herewith; and the City Administrative Officer shall cause to be affixed to the minutes of this meeting an appropriate Certificate of Publication of the newspaper in which the fair summary of the Charter Amendment shall have been published, and shall further cause to be completed and executed the Certificate of Effect.

INTRODUCED by the City Council of New Carrollton at a Regular Meeting of the City Council on the 18th day of December, 2019.

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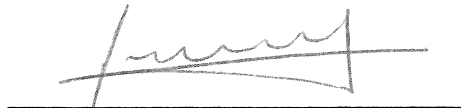
ADOPTED AND ENACTED by the City Council of New Carrollton at a Regular Meeting of the City Council on the 15th day of January, 2020.

Effective: March 5, 2020

Attest:

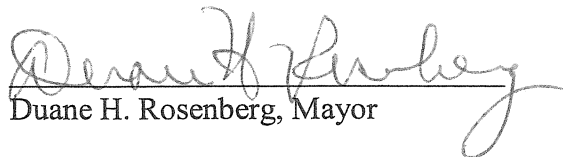
City of New Carrollton


Douglass A. Barber, MMC
City Clerk


Phelecia E. Nembhard, Chair

Date: January 15, 2020

Approved:


Duane H. Rosenberg, Mayor

Date: January 15, 2020

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