

First Reading on November 15, 2021
Introduced & Read on November 22, 2021
Public Hearing held on January 3, 2022

THE TOWN OF CAPITOL HEIGHTS
CHARTER AMENDMENT RESOLUTION 2022-08
(Drafted by the Town Attorney)
Introduced by Councilwoman Elaine Williams

**A CHARTER AMENDMENT RESOLUTION TO REQUIRE CERTAIN
QUALIFICATIONS AND RESTRICTIONS FOR CANDIDATES FOR ELECTED
OFFICE IN THE TOWN OF CAPITOL HEIGHTS**

EXPLANATORY STATEMENT: Charter Amendment Resolution (“CAR”) 2021-06 to limit consecutive terms of elective office was previously adopted on October 27, 2020, and became effective on December 16, 2020. According to the Town Attorney, the residency requirement in Section 202 is likely to be deemed to be constitutionally too long a period of time and could be challenged as excessive and will be changed to one term by this CAR. *See Board of Supervisors of Elections of Prince George's County v. Goodsell*, 284 Md. 279 (1979). The sponsor of this bill would like to amend the Charter to expressly require that no candidate may run for Town office that has a criminal conviction or has been removed from office, and to forbid holding an appointment to another Town office such as a board or committee. Furthermore, the sponsor herein wishes to require fingerprint and background checks as a condition to nomination to a Town office. Finally, the sponsor of this CAR wishes to mandate that elected officials must maintain domicile in the Town during the term in office.

WHEREAS, to initiate a charter change pursuant § 4-304 of the LG Article of the Maryland Code, the elected governing body of a municipality must first pass a resolution to effect a charter change and must post an exact copy of the charter amendment resolution at the town hall or some other public place for at least 40 days after passage of the resolution, and the law further requires the municipality to publish a “fair summary” of the proposed amendment not less than four times at weekly intervals in a newspaper of general circulation in the community, and unless an approved charter amendment is petitioned to referendum, an amendment becomes effective 50 days after a municipal governing body passes a charter amendment resolution; and

WHEREAS, the General Assembly of Maryland passed HB 615 during the 2018 session effective July 1, 2018 and currently codified as § 4-304(a)(2) of the LG Art. further requiring the legislative body of a municipality to also hold a public hearing and give at least 21-days’ notice by posting the notice in a public place before adopting a resolution initiated by the legislative body that proposes an amendment to the municipal charter; and

WHEREAS, as applicable to persons who register to vote with the Prince George’s County Board of Elections, Section 3-102 of the Election Article of Md. Ann. Code, disqualifies individuals from voter registration if the individual “...(1) has been convicted of a felony and is currently serving a court-ordered sentence of imprisonment for the conviction; (2) is under guardianship for mental disability and a court of competent jurisdiction has specifically found by clear and

convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process; or (3) has been convicted of buying or selling votes...”; and

WHEREAS, under Section 202 of the Town Charter, the qualifications for Town office are set forth; and

WHEREAS, the Mayor and Council finds that it is necessary and proper to further outline and incorporate within the Town Charter certain requirements and restrictions for qualified candidates for elective Office.

Section 1. NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF CAPITOL HEIGHTS on this 3rd day of January 2022, that Sections 202 (Qualifications for Office), 301 (Voters), and 305 (Nominations) of the Charter of The Town of Capitol Heights, Maryland shall be and are hereby amended to read as follows:

* * *

ARTICLE II
The Mayor and Council

Section 202. Qualifications for Office.

The Mayor and each Councilmember shall have attained at least twenty-one (21) years of age and shall be a citizen of the United States, a resident of the Town of Capitol Heights for at least ONE (1) year immediately preceding the date of election, and a qualified voter in the Town pursuant to Section 301 of this Charter. The Mayor and each Councilmember shall maintain DOMICILE in the Town during their term of office, AND MUST CONTINUOUSLY RESIDE IN THE TOWN DURING THEIR TERM OF OFFICE. THE MAYOR AND EACH COUNCILMEMBER SHALL NOT HAVE BEEN CONVICTED OF A FELONY, OR BEEN CONVICTED OF, OR ENTERED A PLEA, LEADING TO A CONVICTION OF A MISDEMEANOR INVOLVING ASSAULT, BATTERY, FRAUD, OR A CRIME OF MORAL TURPITUDE, OR HAVE BEEN PREVIOUSLY REMOVED FROM TOWN OFFICE FOR CAUSE OR FORFEITED A TOWN OFFICE UNDER THE PROVISIONS OF THIS CHARTER. NO ELECTED OFFICIAL SHALL, WHILE IN OFFICE, HOLD ANY OTHER APPOINTED OFFICE OR POSITION IN THE SERVICE OF THE TOWN, EXCEPT FOR EX OFFICIO OFFICES PROVIDED BY LAW.

* * *

ARTICLE III
Registration, Nominations, and Elections

Section 301. Voters.

Every person who meets all of the following requirements is a qualified voter of the town and may vote in town elections:

- (a) is a citizen of the United States;
- (b) is at least eighteen (18) years of age;
- (c) has resided within the corporate limits of the Town for thirty (30) days preceding any Town election; and

(d) is registered to vote at least 30 days prior to the election and registered in accordance with the provisions of THIS CHARTER AND state and county law.

* * *

Section 304. Election of the Mayor and Council.

On the first Monday in May of 1998 and every four years thereafter on the first Monday in May the qualified voters of the Town shall elect one person as Mayor and six persons as councilmembers to each serve for a term of four years, or until a successor qualifies for office. No person shall be elected to any office or offices under this charter, whether it be as mayor, councilmember or both offices, for an uninterrupted period of more than three consecutive four-year terms. Except as stated herein, those elected officials that have served continuously for twelve years or having served three full terms of consecutive elected office or more by the day of the general municipal election of 2022 shall not be eligible to run for office in May of 2022 or any time thereafter. An elected official of the Town shall be permitted to accumulate twelve years of total municipal service to the Town provided that no one period of continuous service shall exceed twelve years or three consecutive four-year terms.

Section 305. Nominations.

(a) At least fifteen days before any Town election, the Mayor shall issue a proclamation calling the legally qualified voters of the Town in convention for the purpose of nominating candidates for the office of Mayor and the office of Councilmember. The Town Clerk shall be the clerk of the convention. Only the persons nominated at the convention shall be eligible to have their names appear on election ballots.

(b) Before the name of any candidate for an elective office shall appear on the election ballots, the candidate must within three days after the convention in which nominated file with the Mayor and Council or Town Clerk THE FOLLOWING: (1) the candidate's consent in writing to be a candidate for the office for which named, AND FURTHER PROVIDE AND CONSENT TO FINGERPRINT, AND STATE AND NATIONAL CRIMINAL BACKGROUND CHECKS TO BE CONDUCTED BY THE TOWN'S CHIEF OF POLICE OR DESIGNEE, AND DISCLOSED TO THE PUBLIC, AND PROOF OF RESIDENCY WITHIN THE TOWN BY SWORN AFFIDAVIT SUPPORTED BY FEDERAL OR STATE TAX RECORDS, VALID LEASES OR RECORDED LAND RECORDS.

(c) The names of all candidates nominated for office and who are to appear on the ballots shall be posted in at least three public places in the Town at least ten (10) days before the election. It shall be the duty of the Town Clerk to post publicly the names of the candidates nominated for office.

* * *

Section 2. BE IT FURTHER RESOLVED that this Charter Amendment Resolution is adopted on the aforementioned date, and that upon adoption by the Mayor and Council of The Town of Capitol Heights, Maryland, a complete and exact copy of this Charter Amendment Resolution shall be posted in the Town Office for a period of at least forty (40) days following the date of its adoption. Additionally, a fair summary of the proposed Amendment shall be published in a

newspaper of general circulation in The Town of Capitol Heights not less than four (4) times at weekly intervals within the forty (40) days following the adoption this Charter Amendment Resolution.

Section 3. BE IT FURTHER RESOLVED that the Amendment initiated in this Charter Amendment Resolution shall take effect and shall become and be considered the Charter of The Town of Capitol Heights, upon the fiftieth day after being so ordained or passed unless on or before the fortieth day after being so adopted and passed a referendum petition meeting the requirements of State law shall be presented to the Mayor and Council of The Town of Capitol Heights, Maryland or mailed to it by certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

Section 4. BE IT FURTHER RESOLVED that when the Charter Amendment hereby initiated becomes effective, as provided herein, or following a referendum election, the Town Clerk shall send separately, by certified mail, return receipt requested, to the Maryland Department of Legislative Services within 10 days after the charter resolution becomes effective, the following information concerning the Charter Amendment: (i) the complete text of this Charter Amendment Resolution; (ii) the date of the referendum election, if any held with respect thereto; (iii) the number of votes cast for and against this Charter Amendment Resolution by the Mayor and Council of The Town of Capitol Heights, Maryland or a referendum election; and (iv) the effective date of the Charter Amendment.

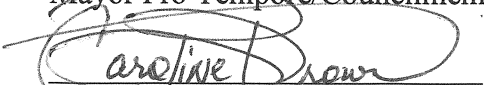
Section 5. BE IT FURTHER RESOLVED that the Town Clerk of The Town of Capitol Heights is specifically instructed to carry out the provisions of Sections 2, 3, and 4 hereof, as evidence of compliance herewith, the Town Clerk shall cause to be affixed to this Charter Amendment Resolution and to the Minutes of the Mayor and Council Meeting in which it is adopted (i) an appropriate certificate of publication of the newspaper in which the summary of the Charter Amendment Resolution shall have been published and (ii) return receipts of the mailing referred to in Section 4, and shall further complete and execute the Certificate of Effect attached hereto.

PASSED by the Mayor and Council of The Town of Capitol Heights, Maryland at a regular or special meeting held on the 3rd day of January 2022.

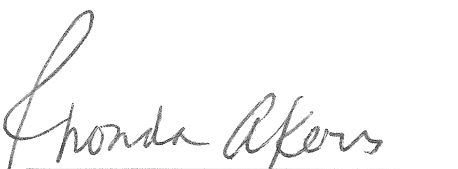
THE TOWN OF CAPITOL HEIGHTS

Vacant
Mayor

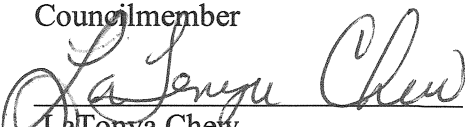
Renita A. Cason
Mayor Pro Tempore/Councilmember



Caroline Brown
Councilmember



Rhonda Akers
Councilmember



LaTonya Chew
Councilmember

-NO-

Faith T. Ford
Councilmember

Elaine Williams

Elaine Williams
Councilmember

ATTEST:

Beverly Habada

Beverly Habada
Town Administrator

CERTIFICATE OF EFFECT

I, HEREBY CERTIFY THAT THE FOREGOING CHARTER AMENDMENT RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF CAPITOL HEIGHTS DESIGNATED CHARTER AMENDMENT RESOLUTION NO. 2021-08, WAS DULY INTRODUCED, READ, AND WAS ADOPTED BY THE MAYOR AND COUNCIL AT A DULY ANNOUNCED PUBLIC MEETING AND THEREAFTER POSTED AND ADVERTISED FOR FOUR SUCCESSIVE WEEKS, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE ANNOTATED CODE OF MARYLAND AND CHARTER OF THE TOWN OF CAPITOL HEIGHTS.

ATTEST:

Robin Bailey

Robin Bailey, Acting Town Clerk
The Town of Capitol Heights, Maryland

DATE HEARING NOTICE POSTED: 12/09/2021
DATE OF HEARING: 01/03/2022
DATE OF INTRODUCTION: 11/22/2021
DATE PASSED/POSTED: 01/03/2022
40-DAY POSTING END DATE: 02/13/2022
FAIR SUMMARY NEWSPAPER (x 4)

WEEKLY PUBLICATION DATES
01/13/2022
01/20/2022
01/27/2022
02/03/2022
EFFECTIVE (50TH DAY) DATE: 02/23/2022