

CHARTER AMENDMENT RESOLUTION NO. 2023-001

A Charter Amendment Resolution of the Town of Chesapeake City, Maryland for the purposes of amending the Charter of the Town of Chesapeake City during the process of Code Codification to correct typographical errors and grammatical errors, and to remove and replace obsolete language.

WHEREAS, the Town has contracted with General Code for purposes of updating and re-codifying its Code and Charter;

WHEREAS, the Town of Chesapeake City, Maryland ("the Town") is in the final stages of the Code Codification Process;

WHEREAS, General Code has identified certain sections of the Code that contain obsolete language and references, as well as typographical and grammatical errors, and has requested that the Town amend its Charter to remove and replace the obsolete language and typographical and grammatical errors; and

WHEREAS, the Town Council believes that the changes requested by General Code are true and justified; and

Section 1. NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF CHESAPEAKE CITY, MARYLAND on this 13th day of March, 2023, that pursuant to the authority of Article XI-E, § 4 of the Constitution of the State of Maryland and Md. Code Ann., Local Gov't Article, the following Sections of the Charter of the Town of Chesapeake City, Maryland shall be and is hereby amended to read as follows:

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Section 26-2. Generally.

The courses and distances showing the exact corporate limits of the Town shall be filed at all times with the Clerk of the Circuit Court of Cecil County, the [~~Commissioner~~] DIRECTOR of the Land Office, the EXECUTIVE Director of the Department of Legislative [~~Reference~~] SERVICES and in the Town office building. All the officials named in this section are hereby directed to file or record all such descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours.

Section 26 – 3 Number of [councilpersons] COUNCILMEMBERS; selection; term

All legislative powers of the town are vested in a council of five [councilpersons] COUNCILMEMBERS who shall be elected as hereinafter provided, to serve two-year terms. The regular term of [councilpersons] COUNCILMEMBERS shall expire on the second Monday of July following the election of their successors. In the event that an election is postponed in accordance with Section 26-31 (d) of this Charter as the result of a State of Emergency or catastrophic health emergency, the regular term of [councilpersons] COUNCILMEMBERS shall expire on the second Monday of the month following the election of their successors. Two council seats are elected in even numbered years, three council seats are elected in odd numbered years.

Section 26–4 Qualifications of [councilpersons] COUNCILMEMBERS

[Councilpersons] COUNCILMEMBERS shall have resided in the town for at least one year immediately preceding their election and shall be a qualified registered voter of the town. [Councilpersons] COUNCILMEMBERS shall be required to take an oath of office in accordance with section 26–91 and shall maintain a permanent residence in the town during their term of office. (Reso. No. 1, 3–9–64, Reso. No. 9–1–2003, 10–28–03.)

Section 26–5 Salary of [councilpersons] COUNCILMEMBERS

The monthly salary for [councilpersons] COUNCILMEMBERS shall be established by resolution however no change shall be made to the salary for [councilpersons] COUNCILMEMBERS during the term for which he/she was elected. (Reso. No. 1, 3–9–64; Res. No. 3–94, 3–21–94; Res. No. 99-5-1; Res. No. 10-1-05)

Section 26-6. Meetings.

The Council shall meet at 6:30 p.m. on the second Monday in July of each year or at such other date and time as may be designated by the Council for the purpose of organization, after which the Council shall meet regularly 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 ~~{Administrator}~~ MANAGER and/or Clerk-Treasurer upon the request of the Mayor or at least three members of the Council. All regular and special meetings of the Council shall be held in accordance with the State Open Meetings Law as provided in ~~{Subtitle 5, Meetings, of Title 10, Governmental Procedures, of the State Government Article}~~ TITLE 3, OPEN MEETINGS ACT, OF THE GENERAL PROVISIONS ARTICLE of the Annotated Code of Maryland, as may be amended from time to time.

Section 26-10. Rules and order of business; minutes.

The Mayor, with Council approval, shall determine ~~{its own}~~ THE rules and order of business OF THE COUNCIL. ~~{It}~~ THE COUNCIL shall keep minutes of its proceedings and enter therein the yeas and nays upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The minutes shall be open to public inspection.

Section 26-11. Vacancies on Council.

The Mayor and/or any ~~{Council Person}~~ COUNCILMEMBER may be removed from office or a vacancy shall occur upon the following events: 1) Resignation; 2) Ceasing to reside within the boundaries of the Town of Chesapeake City; 3) Death; 4) Criminal conviction; 5) Unexcused absences for four consecutive Town meetings (meetings include both Town monthly meeting and Town workshop) or unexcused absences for more than half of the scheduled Town meetings during a six-month period; or 6) Violation of the Town Charter and/or Ethics Ordinance.

A motion for the removal of the Mayor and/or any ~~{Council Person}~~ COUNCILMEMBER for either a criminal conviction or violation of the Town Charter and/or Ethics Ordinance shall be made at any regular or special meeting of the Mayor and ~~{Commissioners}~~ COUNCIL; however, no vote on such motion shall occur during the meeting it is made. The voting procedures for such motion shall be the same as any other motion before the Mayor and ~~{Commissioners}~~ COUNCIL and shall be in accordance with the Charter.

All vacancies ~~{of a Council Person}~~ IN THE OFFICE OF COUNCILMEMBER, however created, shall be filled as provided in Section 26-36. In the case of a vacancy in the office of the Mayor a special election shall be held. In no case shall the seat remain vacant for more than 60 days. Until the election of a new Mayor, the ~~{vice-mayor}~~ VICE-PRESIDENT OF THE COUNCIL shall be responsible to fulfill the duties of the office of Mayor.

Section 26-13. Same – veto.

All ordinances passed by the Council shall be promptly delivered to the Mayor for his approval or disapproval. If the Mayor approves any ordinance, he shall sign it. If the Mayor disapproves any ordinance, he shall not sign it. The Mayor shall return all ordinances within six days after delivery to him (including the days of delivery and return and excluding Sunday) with his approval or disapproval. Any ordinance approved by the Mayor shall be law within the provisions of Section 26-12. Any ordinance disapproved by the Mayor shall be returned with a message stating the reasons for his disapproval. Any disapproved ordinance shall not become a law unless subsequently passed by a favorable vote of at least four of the ~~{Councilmen}~~ COUNCILMEMBERS within 35 calendar days from the time of the return of the ordinance. If the Mayor fails to return any ordinance within six days of its delivery as aforesaid, it shall be deemed to be approved by the Mayor and shall become law in the same manner as an ordinance signed by him.

Section 26-15A Heads of offices, departments and agencies

Council by resolution shall appoint the heads of all offices, departments and agencies of the town government as established by this Charter or by ordinance. Only ~~[councilpersons]~~ COUNCILMEMBERS may serve as heads of offices, departments and agencies. All office, department and agency heads shall serve at the pleasure of Council. Each ~~[councilperson]~~ COUNCILMEMBER shall be the head of at least one office, department or agency. This shall supersede neither Section 26-39 (Clerk-Treasurer) nor Section 26-63 (Town Attorney) which remain in full force and effect.

Section 26-16. Term of office.

The Mayor shall be elected as hereinafter provided and shall hold office for a term of two years or until his successor is elected and qualified. The regular term of Mayor shall expire on the ~~{first}~~ SECOND Monday of July following the election of their successor. In the event that an election is postponed in accordance with Section 26-31(d) of this Charter as the result of a state of emergency or catastrophic health emergency, the regular term of the Mayor shall expire on the second Monday of the month following the election of their ~~{successors}~~ SUCCESSOR.

Section 26-20. Specified.

(b)(7) Billboards. To license~~{,}~~ and regulate, restrain or prohibit the erection or maintenance of billboards within the ~~{city,}~~ TOWN AND the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the Town.

(b)(25) Franchises. To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, and any others which may be deemed advantageous and beneficial to the Town, subject, however, to the limitations and provisions of ~~{article 23}~~ THE PUBLIC UTILITIES ARTICLE of the Annotated Code of Maryland. No franchise shall be granted for a longer period than 50 years.

(b)(30) Health. To protect and preserve the health of the Town and its inhabitants; to appoint a public health officer, and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the Town; to establish quarantine regulations and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health; provided~~{,}~~ that nothing herein shall be construed to affect in any manner any of the powers and duties of the State ~~{Board}~~ DEPARTMENT of Health, the County Board of Health, or any public general or local law relating to the subject of health.

(b)(53) Zoning. To exercise the powers as to planning and zoning~~{,}~~ conferred upon municipal corporations generally in ~~{article 66B}~~ THE LAND USE ARTICLE of the Annotated Code of Maryland, subject, however, to the limitations and provisions of said Article.

Section 26-22. Enforcement.

To ensure the observance of the ordinances of the Town, the Council shall have the power to provide that violation thereof shall be a misdemeanor and shall have the power to affix thereto penalties of a fine not exceeding \$1,000 or imprisonment for not exceeding ~~{30 days}~~ SIX MONTHS, or both such fine and imprisonment. Any person subject to any fine, forfeiture, or penalty by virtue of any ordinance passed under the authority of this Charter shall have the right of appeal within 30 days to the Circuit Court for Cecil County. The Council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

Section 26-24. Board of Supervisors of Elections – created; composition; appointment, qualifications, compensation and term of office of members; filling vacancies in office.

There shall be a Board of Supervisors of Elections, consisting of five members who shall be appointed by the Mayor with the approval of the Council on or before the first Monday in April of 1964 and every two years thereafter. The terms of the appointed members of the Board of Supervisors of Elections shall begin on the first Monday in April in the year in which they are appointed and shall run for two years. At least two of the appointive members of the Board of Supervisors of Elections shall reside in that part of the Town which lies north of the Chesapeake and Delaware Canal and at least two appointive members shall reside in that part of the Town which lies south of the Chesapeake and Delaware Canal. Appointive members of the Board of Supervisors of Elections shall be registered voters of the Town and shall not hold or be candidates for any elective office during their terms of office. One member of the Board of SUPERVISORS OF Elections shall serve as ~~{Chairman}~~ CHAIRPERSON of the Board, but shall vote only in the event of a tie. Vacancies on the Board shall be filled for the remainder of the unexpired term. The compensation of the appointive members of the Board shall be determined by Council.

Section 26-31 Schedule of elections

- (a) On the first Monday in June of each even numbered year the registered voters of the town shall elect one person as mayor to serve for a term of two years.
- (b) On the first Monday in June of each even number year the registered voters of the town shall elect two persons as ~~{councilpersons}~~ COUNCILMEMBERS to serve for a term of two years.
- (c) On the first Monday in June of each odd numbered year the registered voters of the town shall elect three persons as ~~{councilpersons}~~ COUNCILMEMBERS to serve for a term of two years.
- (d) In the event of a State of Emergency of the State of Maryland or a catastrophic health emergency, the Town Council may, by Resolution, postpone the date of the Election in

order to provide for the public health and safety of the Town, its Voters, Officials, Employees, and Volunteers.

Section 26-31.1. Absentee ballots.

(b) The Board of Supervisors of Elections shall mail or deliver absentee ballots to qualified voters, at the written request of those voters, not less than 15 DAYS prior to the election. Qualified voters, or an authorized agent, may apply in person to the Board of Supervisors of Elections for an absentee ballot up to and including the day before the election in cases where the voter finds that they will be unable to attend the polling location on election day. Absentee ballots must be received by the Supervisors of Elections by 7:00 p.m. on election day.

Section 26-32. Conduct of elections.

(5) Except for servicing by an authorized person, unlock any locked or closed compartment of a voting ~~device~~ {device} unless instructed to do so by the election director;

(10) Canvass, electioneer, or post any campaign material in the polling place or beyond a line established by signs posted by the ~~{election board}~~ BOARD OF SUPERVISORS OF ELECTIONS. The line shall be located as near as practicable to 100 feet from the entrance and exit of the building in which voting occurs and shall be established after consideration of the configuration of the entrance and the effect of placement on public safety and the flow of pedestrian and vehicular traffic. The signs shall contain the following or comparable language: "No Electioneering Beyond this Point";

Section 26-34. Vote count.

(b) The candidate for Mayor with the highest number of votes in the election shall be declared elected as Mayor. In every even numbered year (except 1964) the two candidates with the highest number of votes shall be declared elected as ~~Councilmen~~ COUNCILMEMBERS. In every odd numbered year the three candidates with the highest number of votes shall be declared elected as ~~{Councilmen}~~ COUNCILMEMBERS.

Section 26-38. Penalties.

Any person who: (a) fails to perform any duty required of him/her under the provisions of this subtitle or any ordinances passed thereunder; (b) violates any of the provisions of this subtitle or any ordinances passed thereunder, or; (c) does anything which will or will tend to affect fraudulently any registration, nomination, or Town election, shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than \$500 ~~{for more than \$1,500}~~ NOR MORE THAN \$1,000, or imprisonment for not more than 60 days, or both. Any officer or employee of the Town government who

is convicted of a misdemeanor under any provisions of this subtitle or any ordinances passed thereunder shall immediately upon conviction cease to hold such office or employment.

Section 26-47. Over-expenditure forbidden.

(b)(6) An officer or employee who is found guilty of willfully or knowingly violating any provision of subsection (a) of this section is subject to a fine not exceeding \$1,000 or imprisonment ~~{in the State Penitentiary}~~ not exceeding two years or both for a first offense, and for a subsequent offense, to a fine not exceeding \$2,000 or imprisonment ~~{in the State Penitentiary}~~ not exceeding two years or both.

Section 26-61. Purchasing and contracts.

(b) Procedures for the purchase and contract for supplies, construction, ~~{Leas}~~ LEASE/rental, equipment and services costing \$1,000 or more but not exceeding \$7,500 shall be established by the Mayor and Council by resolution. All purchases and contracts for supplies, construction, lease/rental, equipment and services costing more than \$7,500 shall be in accordance with Section 26-61 of the Town Charter.

(k)(5) Contracts with public utility service companies under tariffs on file with the Public ~~{Utility}~~ SERVICE Commission, contracts made with another political subdivision of the State of Maryland or of another state adjoining the State of Maryland, the Federal Government and any agency of the State of Maryland or of another state adjoining the State of Maryland or any municipality authority.

Section 26-64. Authority to employ personnel.

(b)(1) The Council shall establish an Employment Committee ~~{comprising}~~ COMPRISED of the Mayor and two Council members. The two Council members shall be appointed to the ~~{Personnel}~~ EMPLOYMENT Committee by a majority vote of the Council and shall serve for a term of one year.

(c) Appointment and removal. All officers and employees, contractual or salaried, of the offices~~{,}~~ AND departments of the Town government, other than heads of offices and departments of the Town government, shall be appointed and removed by a majority vote of the Town Council, in accordance with the rules and regulations in any personnel policy and any merit system which may be adopted by the Council.

Section 26-66. Compensation of employees.

The compensation of all officers and employees of the Town shall be set from time to time by a motion passed by the Council, subject to the restrictions imposed upon establishing the salaries of the ~~{Councilmen}~~ COUNCILMEMBERS and Mayor.

Section 26-85. Authority of Town generally.

The Town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction~~[,]~~ of water mains, sanitary sewer mains, storm water sewers, curbs, and gutters and by the construction~~[,]~~ and paving of public ways and sidewalks or parts thereof, and to provide for the ~~[pavement]~~ PAYMENT of all or any part of the above projects out of the proceeds of such special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the Town, and any other item of cost which may reasonably be attributed to the project.

Section 26-91. Oath of office.

(a) Before entering upon the duties of their offices, the Mayor, the ~~[Councilmen]~~ COUNCILMEMBERS, the Clerk-Treasurer, the members of the Board of Supervisors of Elections, and all other persons elected or appointed to any office of profit or trust in the Town government shall take and subscribe the following oath or affirmation: "I, _____, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and 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, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of _____, according to the Constitution and laws of this state."

Section 26-93. Liability of Town for damages.

Before the Mayor and Council of the Town of Chesapeake City shall be liable for damages of any kind, the person injured or someone in his behalf shall give the Mayor or the Town Clerk of Chesapeake City notice in writing of such injury within 30 days after the same has been received, stating specifically in said notice when, where and how the injury occurred and the extent thereof. The Mayor and Council of the Town of Chesapeake City shall never be liable on account of any damage or injury to person or property arising from or occasioned by any public street, highway or grounds, including accumulations of snow and ice on any public work of the ~~[city]~~ Town, unless the specific defect or the accumulation of snow and ice causing the damage or injury shall have been actually known to the Mayor or the ~~[Superintendent of Streets]~~ PUBLIC WORKS DEPARTMENT HEAD by personal inspection for a period of at least 24 hours prior to the occurrence of the injury or damage and proper diligence has not been used to rectify the defect or cause~~[,]~~ such ~~[as]~~ accumulations of snow or ice~~[,]~~ to be removed after actually known or called to the attention of the Mayor or ~~[Superintendent of Streets]~~ PUBLIC WORKS DEPARTMENT HEAD as aforesaid.

Section 26-95. Violations of ordinances and resolutions.

Every violation of an ordinance or resolution which is made a misdemeanor under the authority of this Charter, unless otherwise provided, shall be punishable as misdemeanors and be punishable by a fine not to exceed \$1,000 or imprisonment for NOT TO EXCEED six months or both.

The Council may also provide that violations of any ordinance or resolution shall be a "municipal infraction" unless the violation is declared to be a felony or a misdemeanor by state law.

Text in Boldfaced Brackets and Strikethrough, indicates matter to be repealed. Text in All Capitals and Underlining, indicates matter to be added.

Section 2. BE IT FURTHER RESOLVED by the Council of the Town of Chesapeake City that all ordinances and resolutions enacted by the Council of the Town of Chesapeake City prior to the date upon which the Charter adopted by this Resolution takes effect shall thereafter continue in full force and effect, except to the extent that the authority, either express or implied, for any such ordinance or resolution is not granted to the Town of Chesapeake City by the Charter adopted by this Resolution or by other law, and further except to the extent that any such ordinance or resolution may irreconcilably conflict with any provision of the Charter adopted by this resolution.

Section 3. BE IT FURTHER RESOLVED by the Council of the Town of Chesapeake City that this Resolution amending the Charter of the Town of Chesapeake City shall not alter ownership, title or control of any property in which the municipal corporation had an interest prior to the effective date of the Charter adopted by this Resolution; nor shall the adoption of this Resolution amending the Charter for the municipal corporation affect any liabilities, debts or other obligations entered into or incurred by or on behalf of the Town of Chesapeake City prior to the effective date of the Charter and all such liabilities, debts and other obligations shall continue to be fulfilled and satisfied by the municipal corporation; nor shall the adoption of this Resolution amending the Charter for the Town of Chesapeake City affect the term of office or incumbency of any Town Council or any appointed member of any department, office, board, Commission, committee, agency or other unit of the Town, and the continuity of every department, office, board, commission, committee, agency or other unit of the Town government is retained, it being the intent of the Town Council in the adoption of this Resolution that the affairs of the municipal corporation be continued without interruption and without substantial changes in the form or manner of government under the amended Charter.

Section 4. BE IT FURTHER RESOLVED by the Council of the Town of Chesapeake City that if any provision of this Resolution or the Charter adopted by this Resolution, or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provision or any other application of this Resolution or of the Charter that

can be given effect without the invalid provision or application, and to this end, all the provisions of this Resolution and of the Charter are declared to be severable.

Section 5. BE IT FURTHER RESOLVED by the Council of the Town of Chesapeake City that this Charter Amendment Resolution is adopted this 13th day of March 2023, and that upon adoption by the Council of the Town of Chesapeake City, Maryland a complete and exact copy of this Charter Amendment Resolution shall be posted in the Town Municipal Building for a period of at least forty (40) days following the adoption of this resolution and made available for public inspection and a fair summary of this Charter Amendment Resolution shall be published four (4) times at weekly intervals in a newspaper of general circulation within a period of forty (40) days following its adoption.

Section 6. BE IT FURTHER RESOLVED that the Amendments initiated in this Charter Amendment Resolution shall take effect and shall become and be considered the Charter of the Town of Chesapeake City, 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 Council of the Town of Chesapeake City, Maryland or mailed to it by certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

Section 7. 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 Department of Legislative Services, 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 Council of the Town of Chesapeake City, Maryland or a referendum election; and (iv) the effective date of the Charter Amendment.

Section 8. BE IT FURTHER RESOLVED that the Town Clerk of the Town of Chesapeake City is instructed to carry out the provisions of Sections 6 and 7 hereof, and as evidence of compliance herewith, the Town Clerk shall cause to be affixed to this Charter Amendment Resolution and to the Minutes of the Town Council Meeting at 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 7, and shall further complete and execute the Certificate of Effect required by State law.

INTRODUCED by the Council of the Town of Chesapeake City, Maryland at a regular meeting on the 9th day of January, 2023.

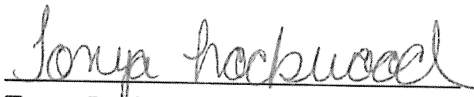
PUBLIC HEARING by the Council of the Town of Chesapeake City, Maryland at a regular meeting on the 13th day of February, 2023.

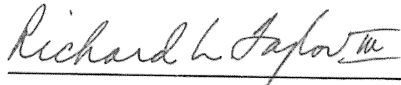
PASSED by the Council of the Town of Chesapeake City, Maryland at a regular meeting on the 13th day of March, 2023.

Effective : May 2, 2023

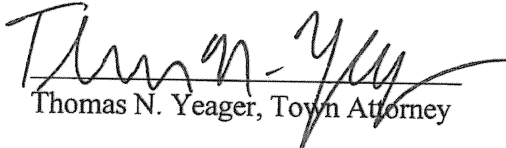
BY AUTHORITY OF THE MAYOR
AND COUNCIL OF THE TOWN OF
CHESAPEAKE CITY, MARYLAND

ATTEST:


Tonya Lockwood, Town Clerk


Richard L. Taylor, III, Mayor

Approved as to Form:


Thomas N. Yeager, Town Attorney