



Town of Capitol Heights

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**MAYOR & COUNCIL
PUBLIC SESSION HEARING
MARCH 15, 2021
7:00 PM**

Zoom Meeting

<https://zoom.us/j/96012003975?pwd=ZTZwL3JvZWZicWJ0L1p1VXdwWUt6Zz09>

Meeting ID: 960 1200 3975

Passcode: 487704

By phone (301) 715-8592

Passcode: 487704

TEMPORARILY ABOLISH THE OFFICE OF THE MAYOR HEARING AGENDA

- I. Call to Order:** Mayor Pro Tem Renita A. Cason
- II. Roll Call:** Robin Bailey-Walls, Town Clerk
- III. Hearing Opening Statement and Rules** – Acting Town Administrator, Darrell Miller
- IV. Presentation/ Discussion** - Sponsoring Council Member(s)
- V. Shawn Maldon Discussion**
- VI. Council Comments**
- VII. Shawn Maldon Comments**
- VIII. Public Comments**
- IX. Council Comments**
- X. Shawn Maldon Comments**
- XI. The floor will be open for Council to Motion to Approve or Disapprove the adoption of the Charter Amendment Resolution 2021-18
A Charter Amendment to Amend the Charter of the Town of Capitol Heights to Temporarily Abolish the Office of Mayor and Reassign the Duties of the Office of the Mayor Until the Next Election**
- XII. Call for a Vote** – Mayor Pro Tem Cason
- XIII. Vote**
- XIV. Adjournment**

Council Expected to Adjourn the Public Session Meeting to Convene Closed Session to Discuss Personnel and Legal Issues

Please Note: Pursuant to the Annotated Code of Maryland, State Government Article Section 10-508(a), the Council by majority vote may retire to executive or closed session at any time during the meeting. Should the Council retire to executive or closed session the chair will announce the reasons and a report will be issued at a future meeting disclosing the reasons for such closed session.

**MAYOR & COUNCIL
CLOSED SESSION
March 15, 2021
Directly after Hearing**

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. CLOSED SESSION** – Personnel and Legal Issues
- IV. ADJOURNMENT**



Read: February 22, 2021
Voted and Adopted: March 15, 2021
Date Effective: _____

**THE TOWN OF CAPITOL HEIGHTS
CHARTER AMENDMENT RESOLUTION 2021- 18
(Drafted by Special Counsel)**

Introduced by Council Member(s) Akers, Williams, Chew, Brown

A CHARTER AMENDMENT RESOLUTION TO AMEND THE CHARTER OF THE TOWN OF CAPITOL HEIGHTS TO TEMPORARILY ABOLISH THE OFFICE OF MAYOR AND REASSIGN THE DUTIES OF THE OFFICE OF MAYOR UNTIL THE NEXT ELECTION

EXPLANATORY STATEMENT: The Town Charter, § 304 provides for the election of 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. This Charter Amendment Resolution serves to terminate the term of office of the current Mayor temporarily until a new Mayor is elected and qualified to serve pursuant to the next election scheduled for the first Monday in May of 2021, and it allows the remaining councilmembers to temporarily appoint a chairman and reassign the duties of Mayor under the Charter until the next election.

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, in *Town of Glenarden v. Bromery*, 257 Md. 19 (1970), the Court of Appeals of Maryland held that displaced office holders who challenged the effectiveness of certain charter amendments to validly accomplish a change in terms and officials for those officials could not be challenged; and

WHEREAS, in *Town of Glenarden v. Bromery*, 257 Md. 19 (1970), the Court of Appeals of Maryland, as annotated in the Maryland Code, further held that the fact that the exercise of the right to amend a municipal charter resulted in shortening the terms of the mayor and councilmen of that town, just as the exercise of a power to recall, had one existed, would have done, is coincidental, and would not make [or negate] the permitted process of amendment [due to] the withheld or forbidden process of recall; and

WHEREAS, the high court in the *Bromery* case as part of its rationale cited a treatise by Charles S. Rhyne, *Municipal Law* (1957), where the author said "... [on] (pp. 141-142) that an official's claim to tenure is not protected by the contract clause of the Federal Constitution and that a legislature may diminish the term of or entirely abolish an elective office...[and]... (pp. 147-148) that an office may be abolished at any time by a constitutional amendment even though the constitution provides that the officer shall hold office during the term for which he was elected, and that an office created by a charter may be abolished by charter amendment." (*See also Rhyne, The Law of Local Government Operations* §13.14 (1980); and

WHEREAS, the Mayor and Council finds that it is in the best interest of the Town to temporarily abolish the Office of the Mayor and temporarily reassign the duties of said Office until the next election as set forth in the Town Charter.

Section 1. NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF CAPITOL HEIGHTS on this 15th day of March 2021, that Section 304 (Election of the Mayor and Council) shall and hereby is amended, and the Charter of The Town of Capitol Heights, Maryland shall henceforth read as follows:

* * *

Section 304. Election of the Mayor and Council; TERMS.

A. 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.

B. NOTWITHSTANDING ANYTHING IN THIS CHARTER TO THE CONTRARY, UPON THE EFFECTIVE DATE OF THIS CHARTER AMENDMENT RESOLUTION (NO. 2021-07), THE TERM OF OFFICE FOR THE INCUMBENT MAYOR SHALL BE RESCINDED AND ABOLISHED, AND THE OFFICE SHALL TEMPORARILY CEASE TO EXIST UNDER THIS CHARTER UNTIL THE NEXT ELECTION IS DULY CONDUCTED PURSUANT TO SUBSECTION A OF THIS SECTION AND THE OTHER RELEVANT SECTIONS OF THIS CHARTER. ANY INCUMBENT MAYOR ELECTED AND SERVING AS OF THE EFFECTIVE DATE OF THIS CHARTER AMENDMENT RESOLUTION SHALL BE DEEMED TO HAVE TERMINATED HIS OR HER TERM OF OFFICE BY OPERATION OF LAW AND SHALL HAVE NO RIGHT OR PRIVILEGE TO HOLD OVER OR CONTINUE TO RETAIN SAID OFFICE FOR THE REMAINING TERM OF FOUR YEARS, OR UNTIL A SUCCESSOR IS ELECTED AND QUALIFIED FOR THE OFFICE OF MAYOR, WHICH OFFICE SHALL BE RE-CREATED PURSUANT TO SAID CHARTER AMENDMENT RESOLUTION BY OPERATION OF LAW.

C. DURING THE INTERIM PERIOD BETWEEN THE EFFECTIVE DATE OF THIS CHARTER AMENDMENT RESOLUTION (NO. 2021-07), THROUGH THE FIRST MONDAY IN MAY OF 2021, THE MAYOR PRO TEMPORE OR ANOTHER COUNCILMEMBER, AS APPOINTED BY THE REMAINING COUNCILMEMBERS, SHALL PERFORM THE DUTIES OF THE MAYOR UNDER THIS CHARTER, UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES FOR OFFICE.

D. NOTWITHSTANDING ANYTHING IN THIS CHARTER TO THE CONTRARY, DURING THE INTERIM PERIOD AND DURATION OF THE TEMPORARY ABOLISHMENT AND CESSATION OF THE OFFICE OF THE MAYOR AS DESCRIBED IN THIS SECTION, THE COUNCIL MAY FROM TIME TO TIME APPOINT BY WRITTEN RESOLUTION ANY REMAINING MEMBER OR MEMBERS OF THE COUNCIL, INCLUDING BUT NOT LIMITED TO THE MAYOR PRO TEMPORE, OR AN APPOINTED OFFICIAL OF THE TOWN TO FULFILL ALL OR A PORTION OF THE SEVERAL STATED OR ENUMERATED DUTIES OF THE OFFICE OF THE MAYOR AS PRESCRIBED IN THIS CHARTER PROVIDED THAT THE COUNCIL'S PRESIDING OFFICIAL OR CHAIRPERSON FOR THE CONDUCT OF MEETINGS SHALL BE AN ELECTED OFFICIAL. SHOULD THE COUNCIL DECIDE, AFFIRMATIVELY OR BY OMISSION, DURING SAID INTERIM PERIOD NOT TO ASSIGN, DIVIDE OR DELEGATE ANY OF THE DUTIES OF THE OFFICE OF MAYOR AS PRESCRIBED BY THIS CHARTER TO ANY OTHER OFFICIAL, SAID DUTIES AND RESPONSIBILITIES SHALL REMAIN VESTED IN THE MAYOR PRO TEMPORE OR NEXT SENIOR COUNCILMEMBER AS OTHERWISE EXPRESSLY PROVIDED FOR IN THIS CHARTER.

E. NOTWITHSTANDING ANYTHING IN THIS CHARTER TO THE CONTRARY, DURING THE INTERIM PERIOD AND DURATION OF THE TEMPORARY ABOLISHMENT AND CESSATION OF THE OFFICE OF THE MAYOR AS DESCRIBED IN THIS SECTION, THE COUNCIL MAY RATIFY OR CONTINUE WITH THE PRIOR MAYORAL APPOINTMENT OF THE MAYOR PRO TEMPORE OR APPOINT A NEW COUNCILMEMBER TO SERVE AS MAYOR PRO TEMPORE WHO, DURING THE INTERIM PERIOD AND DURATION OF THE TEMPORARY ABOLISHMENT AND CESSATION OF THE OFFICE OF THE MAYOR AS DESCRIBED IN THIS SECTION, SHALL EXERCISE ALL OF THE POWERS PREVIOUSLY PROVIDED TO THE OFFICE OF MAYOR BY THIS CHARTER, ORDINANCE, OR ANY OTHER LAW, RESOLUTION, OR REGULATION.

* * *

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 15th day of March 2021.

THE TOWN OF CAPITOL HEIGHTS, by and through its Mayor and Common Council

Renita A. Cason
Mayor Pro Tempore/Councilmember
Charter Resolution 2021-18

Rhonda Akers
Councilmember
Charter Resolution 2021-18

Caroline Brown
Councilmember
Charter Resolution 2021-18

LaTonya Chew
Councilmember
Charter Resolution 2021-18

Faith T. Ford
Councilmember
Charter Resolution 2021-18

Elaine Williams
Councilmember
Charter Resolution 2021-18

ATTEST:

Darrell Miller
Acting Town Administrator
Charter Resolution 2021-18

Shawn M. Maldon
Mayor

CERTIFICATION

I, HEREBY CERTIFY, as the duly appointed Town Clerk of the Town of Capitol Heights, Maryland, that on the 15th day of March 2021 with _____ Aye votes and _____ Nay votes, the aforesaid Resolution passed.

Robin Bailey- Walls, Town Clerk

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 - 18, 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, Town Clerk
The Town of Capitol Heights, Maryland
Charter Resolution 2021-18

DATE HEARING NOTICE POSTED:	<u>02/22/21, 03/01/21 and 03/08/2021</u>
DATE OF HEARING:	<u>03/15/21</u>
DATE OF INTRODUCTION:	<u>02/22/21</u>
DATE PASSED/POSTED	_____
40-DAY POSTING END DATE	_____
FAIR SUMMARY NEWSPAPER (x 4)	_____
WEEKLY PUBLICATION DATES	_____

EFFECTIVE (50 TH DAY) DATE:	_____