

THE EFFECTIVE DATE OF THIS RESOLUTION IS JUNE 30, 2020

RESOLUTION NO. 20-21

RE: Charter Amendment – County Executive - Vacancies

The Frederick County Charter, Section 701, provides that the Charter may be amended by the procedures provided in Article XI-A of the Maryland Constitution.

Article XI-A, §5 of the Maryland Constitution provides, in relevant part, that amendments to any charter adopted by any County may be proposed by a Resolution of the County Council.

Article XI-A, §5 of the Maryland Constitution provides that a Charter Amendment shall be published by the President of the County Council once a week for five successive weeks prior to the election in at least one newspaper published in the County.

Article XI-A, §5 of the Maryland Constitution provides that an amendment so proposed shall be submitted to the voters of the County at the next general or congressional election occurring after the passage of the resolution.

Article XI-A, §5 of the Maryland Constitution provides that if at the election the majority of the votes cast for and against the amendment shall be in favor thereof, the amendment shall be adopted and become a part of the charter of the County from and after the thirtieth day after the election.

The Frederick County Charter, Article 4, Executive, currently allows for a vacant County Executive position to be filled by a party member of the same political party as the person vacating the office through appointment by the County Council.

Specifically, Section 408 states:

408. Vacancy in the Office of County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy.

(b) An appointee, when succeeding a party member, shall be a member of the same political party as the person elected to such office and shall be a nominee of the County central committee of that party. If the County central committee fails to provide a nominee within the first thirty days of a vacancy, the Council shall appoint any person the Council deems qualified who is a member of the political party.

(c) If the Council has not made an appointment within the forty-five-day period provided in subsection (a) of this section, the Council shall appoint within fifteen days thereafter: (1) the nominee of the County central committee of the political party, if any, of the person who vacated the office, provided that the political party nominee was provided to the Council within the first thirty days of a vacancy, as required by subsection (b) of this section; or (2) the Chief Administrative Officer, if the person who vacated office was not a member of a political party.

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

The Council continues to believe that the replacement for a vacating Executive should be selected from a list of three candidates submitted by the political party for which the Executive was affiliated during the election campaign, and if no list is provided or the vacating Executive was not a member of a political party, the Council shall appoint the best qualified person to hold the office and further funds that all persons considered for appointment shall be subject to public interview by the Council and for public comment. If the Council fails to appoint a new Executive within 45 days, then it shall appoint the Chief Administrative Officer.

Underlining indicates matter to be added to existing law.

[Single boldface brackets] indicate matter to be deleted from existing law.

If a vacancy occurs during the first year of a vacating Executive's term, the vacancy shall be temporarily filled by appointment and permanently filled by a special election.

In accordance with Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution, this Resolution proposes adding provisions to allow for a vacancy of Executive to be filled by the selection from a list of three candidates submitted by the political party for which the Executive was affiliated during the election campaign, and if no list is provided or the vacating Executive was not a member of a political party, the appointment shall be of the best qualified person to hold the office, and all persons considered for appointment shall be subject to public interview by the Council and to public comment. If the Council fails to appoint a new Executive within 45 days, then it shall appoint the Chief Administrative Officer. If a vacancy occurs during the first year of a vacating Executive's term, the vacancy shall be temporarily filled by appointment and permanently filled by a special election.

The County Council, therefore, adopts this Resolution to amend Section 408 of the County Charter to read:

Section 408. Vacancy in the Office of the County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of the office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy and to serve a term pursuant to subsection (f) or (g) of this section, as applicable.

(b) [An appointee, when succeeding a party member, shall be a member of the same political party as the person elected to such office and shall be a nominee of the County central committee of that party. If the County central committee fails to provide a nominee within the first thirty days of a vacancy, the Council shall appoint any person the Council deems qualified who is a member of the political party.] If the vacating County

Executive was last elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the Council by the central committee of the same party. The central committee must provide the list of three persons within 30 days of the vacancy date. If no list is provided within 30 days, or if the vacating County Executive was not a member of a political party when last elected, the Council shall appoint a person it deems best qualified to hold office, provided the appointee meets the qualifications and residency requirements provided in subsection (d) of this section.

(c) If the Council has not made an appointment within the forty-five day period provided in subsection (a) of this section, the Council shall appoint within fifteen days thereafter[: (1) the nominee of the County central committee of the political party, if any, of the person who vacated the office, provided that the political party nominee was provided to the Council within the first thirty days of a vacancy, as required by subsection (b) of this section; or (2) the Chief Administrative Officer, if the person who vacated office was not a member of a political party.], the Chief Administrative Officer.

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

(e) All persons considered by the Council for appointment under either subsection (b) or (c) of this section, as applicable, shall be presented to the public, including their names and qualifications. In addition, the nominees shall be interviewed in public by the Council, including the opportunity for public comment.

(f) If the vacancy occurs no later than 30 days prior to the candidate filing deadline for the presidential primary election, a new County Executive shall be nominated and elected by qualified voters at the same time as the presidential general election and in the manner provided by law. In the interim, until an Executive is elected, the vacancy shall be temporarily filled pursuant to subsection (b) or (c) of this section, as applicable. An Executive appointed under these conditions shall serve until the first Monday of December, following the presidential general election, at which time the winner of the presidential general election for the Executive position shall assume office and serve for the remainder of the vacating Executive's term.

(g) If the vacancy occurs after 30 days prior to the candidate filing deadline for the presidential primary election, the new Executive shall be appointed pursuant to subsection (b) or (c) of this section, as applicable, and serve the remainder of the vacating Executive's term.

The County Council held a duly advertised public hearing on this proposed Charter Amendment on June 16, 2020. The public had an opportunity to comment on the proposed Resolution.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the County Council of Frederick County that the following amendment to the Frederick County Charter, Article 4, Executive, shall be submitted to the voters of the County at the next general or congressional election in accordance with Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution:

Section 408. Vacancy in the Office of the County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of the office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy and to serve a term pursuant to subsection (f) or (g) of this section, as applicable.

(b) [An appointee, when succeeding a party member, shall be a member of the same political party as the person elected to such office and shall be a nominee of the County central committee of that party. If the County central committee fails to provide a nominee within the first thirty days of a vacancy, the Council shall appoint any person the Council deems qualified who is a member of the political party.] If the vacating County Executive was last elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the Council by the central committee of the same party. The central committee must provide the list of three persons within 30 days of the vacancy date. If no list is provided within 30 days, or if the vacating County Executive was not a member of a political party when last elected, the Council shall appoint a person it deems best qualified to hold office,

provided the appointee meets the qualifications and residency requirements provided in subsection (d) of this section.

(c) If the Council has not made an appointment within the forty-five day period provided in subsection (a) of this section, the Council shall appoint within fifteen days thereafter: (1) the nominee of the County central committee of the political party, if any, of the person who vacated the office, provided that the political party nominee was provided to the Council within the first thirty days of a vacancy, as required by subsection (b) of this section; or (2) the Chief Administrative Officer, if the person who vacated office was not a member of a political party.], the Chief Administrative Officer.

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

(e) All persons considered by the Council for appointment under either subsection (b) or (c) of this section, as applicable, shall be presented to the public, including their names and qualifications. In addition, the nominees shall be interviewed in public by the Council, including the opportunity for public comment.

(f) If the vacancy occurs no later than 30 days prior to the candidate filing deadline for the presidential primary election, a new County Executive shall be nominated and elected by qualified voters at the same time as the presidential general election and in the manner provided by law. In the interim, until an Executive is elected, the vacancy shall be temporarily filled pursuant to subsection (b) or (c) of this section, as applicable. An Executive appointed under these conditions shall serve until the first Monday of December, following the presidential general election, at which time the winner of the presidential general election for the Executive position shall assume office and serve for the remainder of the vacating Executive's term.

(g) If the vacancy occurs after 30 days prior to the candidate filing deadline for the presidential primary election, the new Executive shall be appointed pursuant to subsection (b) or (c) of this section, as applicable, and serve the remainder of the vacating Executive's term.

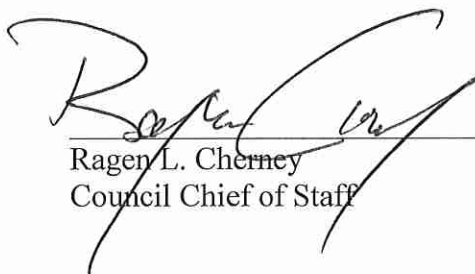
AND BE IT HEREBY FURTHER RESOLVED by the County Council of Frederick County, that pursuant to Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution, the amendments shall be published by the President of the County Council once a week for five successive weeks prior to the election in at least one newspaper published in said County;

AND BE IT HEREBY FURTHER RESOLVED by the County Council of Frederick County, that pursuant to Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution, this proposed Charter Amendment shall be submitted to the voters of the County at the next general or congressional election occurring after the passage of this Resolution.

The undersigned hereby certifies that this Resolution was approved and adopted on the 28th day of July, 2020.

ATTEST:

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND


Ragen L. Cherney
Council Chief of Staff

By: 
M.C. Keegan-Ayer, President