

THE EFFECTIVE DATE OF THIS RESOLUTION IS JULY 17, 2018

RESOLUTION NO. 18-20

RE: Charter Amendment – County Council - 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 2, County Council, currently allows for a vacant County Council member position to be filled by a party member of the same political party as the person vacating the office.

Specifically, Section 209 states:

209. Vacancies

(a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, or becomes disqualified to hold office pursuant to Section 208 of this Charter.

(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve the unexpired term of office. The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a party member, shall be a member of the same political party as the person who vacated office.

(c) When succeeding a party member, the appointee shall be selected from a list of three persons submitted to the Council by the County central committee of the political party affiliated with the person vacating office, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy. If the County central committee submitted a list of names pursuant to subsection (c) of this section, the person appointed shall be selected from the list. If no such list has been submitted, the Executive shall appoint the person the Executive deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the same qualifications and residence requirements as the person who vacated office.

If a Council member were to change political party affiliation during the term of office and after this the position were to become vacant, the replacement would come from a list of candidates submitted by the Central Committee of the political party of which the vacating

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

Council member was a member immediately before the position was vacated and not the political party of the Council member during the election campaign.

The Council believes that the replacement for a vacating Council member should be selected from a list of candidates submitted by the political party for which the member was affiliated during the election campaign.

The voters elected the Council member as a candidate from a political party, so any replacement should come from the same political party even though the Council member might later change political party affiliation.

The Council has identified a need to clarify that a County Council member vacancy shall be filled by an individual of the same political party as the Council member vacating the office was in the most recent election for the County Council member.

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 a County Council seat to be filled by an individual of the same political party as the Council member vacating the office was in the most recent election for the County Council member.

The County Council, therefore, adopts this Resolution to amend Section 209 of the County Charter to read:

209. Vacancies

- (a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, or becomes disqualified to hold office pursuant to Section 208 of this Charter.
- (b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve the unexpired term of office. The appointee

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shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a [party] council member who was elected as a member of a political party, the appointee, shall be a member of the same political party as the [person who vacated office] council member vacating office was in the most recent election for council member.

(c) When succeeding a [party] council member who was 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 County central committee of the political party affiliated with the [person vacating office] council member vacating office was in the most recent election for council member, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy. If the County central committee submitted a list of names pursuant to subsection (c) of this section, the person appointed shall be selected from the list. If no such list has been submitted, the Executive shall appoint the person the Executive deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the same qualifications and residence requirements as the person who vacated office.

The County Council held a duly advertised public hearing on this proposed Charter Amendment on June 19, 2018. 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 2, County Council, shall be submitted to the voters of the County at the next general or congressional

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election in accordance with Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution:

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(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve the unexpired term of office. The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a [party] council member who was elected as a member of a political party, the appointee, shall be a member of the same political party as the [person who vacated office] council member vacating office was in the most recent election for council member.

(c) When succeeding a [party] council member who was 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 County central committee of the political party affiliated with the [person vacating office] council member vacating office was in the most recent election for council member, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy. If the County central committee submitted a list of names pursuant to subsection (c) of this section, the person appointed shall be selected from the list. If no such list has been submitted, the Executive shall appoint the person the Executive deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the same qualifications and residence requirements as the person who vacated office.

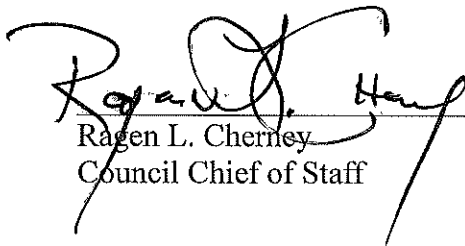
AND BE IT HEREBY FURTHER RESOLVED by the County Council of Frederick County, that pursuant to Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution, the amendments shall be published by the President of the County Council once a week for five successive weeks prior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

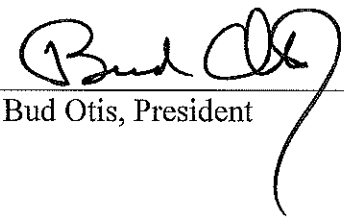
AND BE IT HEREBY FURTHER RESOLVED by the County Council of Frederick County, that pursuant to Section 701 of the Frederick County Charter and Article XI-A, §5 of the Maryland Constitution, this proposed Charter Amendment shall be submitted to the voters of the County at the next general or congressional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

The undersigned hereby certifies that this Resolution was approved and adopted on the 17th day of July, 2018.

ATTEST:

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND


Ragen L. Cherney
Council Chief of Staff

By: 
Bud Otis, President 