



Town of Berwyn Heights

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CHARTER AMENDMENT RESOLUTION NO. 2020 – CR-01

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF BERWYN HEIGHTS TO AMEND THE TOWN CHARTER BY ADOPTING SECTION 510, “EMERGENCY ACTIONS”, TO AUTHORIZE, BY RESOLUTION, THE POSTPONEMENT OF AN ELECTION UNTIL SUCH TIME AS THE ELECTION MAY BE CONDUCTED IN A SAFE, ORDERLY AND EFFICIENT MANNER AND TO MAKE ADDITIONAL NECESSARY CHANGES TO ENSURE AN ACCURATE VOTE COUNT AND CERTIFICATION OF THE ELECTION RESULTS DURING A STATE OF EMERGENCY.

WHEREAS, Section 4-301, *et seq.* of the Local Government Article of the Annotated Code of Maryland authorizes the Mayor and Council from time to time, to amend, supplement or change, by resolution, the Town Charter;

WHEREAS, a state of emergency and catastrophic health emergency was proclaimed by the Governor of Maryland on March 5, 2020, and renewed on March 17, 2020, to control and prevent the spread of COVID-19 within Maryland, and the state of emergency and catastrophic health emergency still exists;

WHEREAS, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed in nearly all Maryland counties;

WHEREAS, to reduce the spread of COVID-19, the U.S. Centers for Disease Control and Prevention and the Maryland Department of Health recommend social distancing and avoiding gatherings;

WHEREAS, the currently known and available scientific evidence and best practices support limitations on gatherings and social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable populations, including older individuals and those with chronic health conditions;

WHEREAS, the Town declared a state of emergency, imposed social-distancing measures, and has taken other actions to reduce the spread of COVID-19;

WHEREAS, to reduce the threat to human health caused by transmission of the novel coronavirus in Maryland, and to protect and save lives, it is necessary and reasonable that individuals in the state refrain from congregating;

CAPS
[Brackets]
Asterisks * * *

: Indicate matter added to existing law.
: Indicate matter deleted from law.
: Indicate matter remaining unchanged in existing law but not set forth in Charter Resolution

WHEREAS, the Town's Charter sets the date of the Town election to be the first Tuesday in the month of May;

WHEREAS, as a result, the Town's elections would be conducted on May 5, 2020, at polling locations that, during the state of emergency and catastrophic health emergency, hinder social distancing, enable the transmission of the novel coronavirus, and pose risks to public health, welfare, and safety;

WHEREAS, holding Town elections at polling locations during the state of emergency and catastrophic health emergency would potentially expose Town buildings, voters, and Town officers, employees, and volunteers to the novel coronavirus; and

WHEREAS, elections must be accessible, secure, and safe; and

WHEREAS, COVID-19, the state of emergency and the catastrophic health emergency, and the State's and Town's emergency actions in response impair the ability of Town's officials, employees, and volunteers to hold election on the date required by the Town's charter; and

WHEREAS, it is in the best interest of the public health and safety of the Town, its residents, officials, employees, and volunteers to be able to postpone a Town election so that election and pre-election activities do not occur during a state of emergency and catastrophic health emergency such as the current COVID-19 pandemic;

WHEREAS, the Mayor and Council have determined that it is in the public interest to postpone the date of the Town election for health and safety reasons, and

WHEREAS, postponement of the date of election requires adoption of a Charter Resolution, which by State law would require a public hearing after 21 days prior notice and an effective date of fifty (50) days after adoption; and

WHEREAS, Executive Order No. 20-03-30-03 of the Governor of the State of Maryland authorizes the Town to suspend the effect of the provisions of Title 4, Subtitle 3 of the Local Government Article of the Annotated Code of Maryland if the Mayor and Council provide notice to the Governor and finds that such suspension will not endanger the public health, welfare, or safety of the Town, and is necessary to amend the date upon which a municipal election will be held or the method, conduct, or voting system of an election in a manner that ensures an accurate vote count and certification of election results; and

WHEREAS, the Mayor and Council have determined that postponement of the date of the election is necessary and will not endanger the public health, welfare, or safety of the Town or its residents.

Section 1: NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF BERWYN HEIGHTS, MARYLAND that Chapter V, "Registration, Nomination, Election", Section 510, "Emergency Actions" of the Charter of the Town of Berwyn Heights be and is hereby enacted to read as follows:

Section 510. EMERGENCY ACTIONS

WHEN A STATE OF EMERGENCY HAS BEEN DECLARED FOR THE TOWN BY THE MAYOR AND COUNCIL, OR BY THE STATE OF MARYLAND OR PRINCE GEORGE'S COUNTY, PURSUANT TO STATE OR LOCAL LAW, AND IN THE JUDGMENT OF THE MAYOR AND COUNCIL THE STATE OF EMERGENCY PREVENTS THE SAFE, ORDERLY AND EFFICIENT CONDUCT OF A TOWN ELECTION, THE MAYOR AND COUNCIL MAY, BY RESOLUTION, POSTPONE AN ELECTION UNTIL SUCH TIME AS THE ELECTION MAY BE CONDUCTED IN A SAFE, ORDERLY AND EFFICIENT MANNER AND MAKE NECESSARY CHANGES TO THE METHOD, CONDUCT, OR VOTING SYSTEM OF AN ELECTION TO ENSURE AN ACCURATE VOTE COUNT AND CERTIFICATION OF THE ELECTION RESULTS.

Section 2: BE IT FURTHER RESOLVED that the Mayor and Council hereby suspend the effect of the provisions of Title 4, Subtitle 3, of the Local Government Article of the Maryland Code with respect to the adoption of this Charter Resolution, as authorized by Executive Order No. 20-03-30-03 of the Governor of the State of Maryland.

Section 3: BE IT FURTHER RESOLVED by the Mayor and Council that a copy of this Charter Resolution shall be provided to the Governor by sending same by email and regular mail to the Office of the Governor.

Section 4: BE IT FURTHER RESOLVED that this Resolution is adopted this 15th day of April, 2020 and that the amendment to the Charter of the Town of Berwyn Heights hereby enacted, shall be and become effective immediately provided that notice of this Charter Resolution is provided to the Governor by the Town. A complete and exact copy of this Resolution shall be posted in the Town municipal building for forty (40) days following its adoption and a fair summary of the Charter Amendment shall be published in a newspaper having general circulation in the Town not less than (4) times at weekly intervals, also within the forty (40) days following.

Section 5: BE IT FURTHER RESOLVED that as soon as the Charter Amendment hereby enacted becomes effective, as herein provided, the Clerk of the Town of Berwyn Heights shall send by mail to the Department of Legislative Services, the following information concerning the Charter Amendment: (i) the complete text of this Resolution; (ii) the number of votes cast for and against this Resolution by the Council of the Town of Berwyn Heights; and (iv) the effective date of the Charter Amendment.

Section 6: BE IT FURTHER RESOLVED that the Clerk of the Town of Berwyn Heights, be, and hereby is specifically enjoined and instructed to carry out the provisions of Sections 4 and 5 as evidence of compliance herewith; and said Clerk shall cause to be affixed to the minutes of the meeting at which the Charter Resolution is adopted an appropriate Certificate of Publication of the newspaper in which the fair summary of the Charter Amendment shall have been published.

Section 7: BE IT FURTHER RESOLVED that if any provision of this Resolution or the Charter amendment 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 provisions or any other application

is held invalid for any reason, such invalidity shall not affect the other provisions or any other application of this Resolution or of the Charter which can be given effect without the invalid provisions or application, and to this end, all the provisions of this Resolution and of the Charter amendment are hereby declared to be severable.

INTRODUCED by the Mayor and Council of Berwyn Heights at a regular meeting on the 15th day of April, 2020.

ADOPTED by the Mayor and Council of Berwyn Heights at a regular meeting on the 15th day of April, 2020.

EFFECTIVE immediately upon adoption, provided that notice is provided to the Governor of Maryland as required herein.

By the Order of the Mayor and Town Council



ATTEST:

Kerstin Harper
Kerstin Harper, Town Clerk

Stephen Isler
Stephen Isler, Mayor of Berwyn Heights