Charter Resolution No. CR-01-2020
Introduced: December 14, 2020
Adopted: February 8, 2021

OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON AMENDING ARTICLE VII REGISTRATION, NOMINATIONS AND ELECTIONS, SECTION 703, "REMOVAL", SECTION 704, "DUTIES", SECTION 705, "NOTICE OF ELECTIONS", SECTION 706, "APPEAL OF THE ACTIONS OF THE BOARD OF SUPERVISORS OF ELECTIONS", SECTION 707, "REGISTRATION", SECTION 708, "NOMINATIONS", SECTION 709, "ELECTION OF THE MAYOR AND THE COUNCIL MEMBERS", SECTION 710, "CONDUCT OF ELECTIONS", AND SECTION 712, "VOTE COUNT", TO MAKE PROVISION FOR RESOLVING A TIE VOTE, REMOVE AN INVALID PROVISION WITH RESPECT TO ELIMINATING VOTERS FROM THE SUPPLEMENTAL LIST, PROVIDE THAT NO ELECTION WILL BE HELD AND THE QUALIFIED CANDIDATES WILL BE DECLARED ELECTED BY THE SUPERVISORS OF ELECTIONS IF THE NUMBER OF QUALIFIED CANDIDATES IS NOT MORE THAN THE NUMBER OF SEATS TO BE FILLED, CHANGE HOW NOTICE OF ELECTIONS IS GIVEN, TO ALLOW FOR PUBLICATION IN THE TOWN JOURNAL AND POSTING TO THE TOWN'S WEBSITE, ANY TOWN LISTSERV, AND AT TOWN HALL,
LIMIT APPEALS OF SUPERVISORS OF ELECTIONS DECISIONS TO CANDIDATES AND OTHER QUALIFIED VOTERS AND SET A TIME LIMIT, EXTEND THE DEADLINE TO QUALIFY AS A CANDIDATE TO THE THIRD MONDAY IN MAY IN THE EVENT THAT NO CANDIDATE HAS TIMELY FILED FOR AN OFFICE, CLARIFY THAT QUALIFICATIONS FOR OFFICE ARE DETERMINED AT THE TIME OF FILING OF THE CERTIFICATE OF NOMINATION, ALLOW THE COUNCIL BY RESOLUTION IN AN EMERGENCY TO POSTPONE AN ELECTION UNTIL SUCH TIME AS IT CAN BE SAFELY HELD, AND TO MAKE OTHER CHANGES, ALLOW THE COUNCIL BY RESOLUTION TO AUTHORIZE VOTE BY MAIL, AND ALLOW PLACEMENT OF DROP BOXES FOR RECEIPT OF BALLOTS.

A Charter Resolution of the Mayor and Council of the Town of Kensington, Maryland, adopted pursuant to the authority of Article XI-E of the Constitution of Maryland and of §4-301 *et seq.*, Local Government Article, Annotated Code of Maryland, as amended; and

WHEREAS, §5-202 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Mayor and Council to adopt those Charter resolutions as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to

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CAPS : Indicate matter added to existing law.
[~~Brackets~~] : Indicate matter deleted from law.
CAPS : Indicate matter added in amendment of proposed Charter Amendment.
~~CAPS~~ : Indicate matter deleted in amendment of proposed Charter Amendment.
Asterisks * * * : Indicate matter remaining unchanged in existing law but not set forth in Charter Amendment.

secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, the Mayor and Council undertook a thorough review of the Charter with respect to registration of voters, nomination of candidates and elections; and

WHEREAS, the Mayor and Council have determined that it is in the public interest to adopt the amendments as proposed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Kensington, Maryland, that:

Section 1. Article VII, "Registration, Nominations and Elections", Section 703 "Removal" of the Town Charter is repealed, re-enacted and amended as follows:

Section 703. Removal

Any member of the Board of Supervisors of Elections may be removed for good cause by the Council. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges for removal. There shall be a public hearing on the charges before the Council if the member of the Board SO requests within ten (10) days after receiving the written copy of the charges.

Section 2. Article VII, "Registration, Nominations and Elections", Section 704 "Duties" of the Town Charter is repealed, re-enacted and amended as follows:

Section 704. Duties

The Board of Supervisors of Elections shall [~~be in charge of~~] ADMINISTER nominations and all Town elections. The Board may appoint election clerks or other [~~employees~~] PERSONS to assist it in any of its duties, but no salary, expenses, or other compensation shall be paid to such appointees except as provided by the Council. The Board shall be the judge of the election [~~and qualifications of its members~~].

Section 3. Article VII, "Registration, Nominations and Elections", Section 705, "Notice of Elections" of the Town Charter is repealed, re-enacted and amended as follows:

Section 705. Notice of Elections

The Board of Supervisors of Elections shall give at least two (2) weeks' notice of

every election, by POSTING A NOTICE THEREOF AT TOWN HALL, TO THE OFFICIAL TOWN WEBSITE, AND TO ANY TOWN-MAINTAINED E-MAIL LISTSERV, AND BY PUBLISHING IN THE TOWN NEWSLETTER [~~, an advertisement published in at least one newspaper of general circulation in the Town and by posting a notice thereof in some public place or places in the Town~~].

Section 4. Article VII, "Registration, Nominations and Elections", Section 706 "Appeal of the Actions of the Board of Supervisors of Elections" of the Town Charter is repealed, re-enacted and amended as follows:

Section 706. Appeal of the Actions of the Board of Supervisors of Elections

If any [~~person~~] CANDIDATE OR OTHER QUALIFIED VOTER shall feel aggrieved by the action of the Board of Supervisors of Elections [~~by any action~~], such person may appeal to the Council WITHIN FIFTEEN (15) DAYS OF THE ACTION. Any decision or action of the Council upon such appeals may, in turn, be appealed to the Circuit Court for Montgomery County within thirty (30) days of the decision or action of the Council.

Section 5. Article VII, "Registration, Nominations and Elections", Section 707 "Registration" of the Town Charter is repealed, re-enacted and amended as follows:

Section 707. Registration

[~~Registration by a resident with the Montgomery County Board of Supervisors of Elections shall be deemed registration for Town elections~~,] A. ANY PERSON RESIDING WITHIN THE CORPORATE LIMITS OF THE TOWN OF KENSINGTON WHO IS REGISTERED TO VOTE WITH THE MONTGOMERY COUNTY BOARD OF SUPERVISORS OF ELECTIONS AND WILL BE AT LEAST 18 YEARS OF AGE ON ELECTION DAY SHALL AUTOMATICALLY BECOME A REGISTERED VOTER OF THE TOWN AND BE ENTITLED TO VOTE AT GENERAL OR SPECIAL ELECTIONS OF THE TOWN, provided that the application for such registration is received by the Montgomery County Board of Supervisors of Elections no later than 9:00 p.m. on the fifth Monday prior to an election. The Kensington Board of Supervisors of Elections shall accept the list of registered voters provided by the Montgomery County Board of Supervisors of Election as a valid registration list for the Town.

B. Registration of voters shall be permitted in the Town offices during regular office hours every day such offices are open, to develop a supplemental list of registered voters, and at such other times and places as the Council may establish from time to time. Town registration books shall be closed on the last Tuesday in May prior to the Town election. The Board of Supervisors of Elections shall keep the Town supplemental registration lists up to date by striking from the lists any persons who have died, OR [~~who have moved out of~~] NO LONGER

MAINTAIN RESIDENCE IN the Town [~~or who has not voted in a Town election within the five preceding calendar years.~~] The Council, by ordinance, [~~shall~~] MAY adopt and enforce any provisions necessary to establish and maintain a system of permanent registration and provide for re-registration when necessary.

Section 6. Article VII, "Registration, Nominations and Elections", Section 708 "Nominations" of the Town Charter is repealed, re-enacted and amended as follows:

Section 708. Nominations

A. Persons may be nominated AND QUALIFY for elective office in the Town by filing a certificate of nomination AND THE FINANCIAL DISCLOSURE REQUIRED BY SECTION 2-308 OF THE KENSINGTON CODE at the office of the Board of Supervisors of Elections on or before the second Monday in May preceding the Town election. No person shall file for nomination to more than one elective Town public office or [~~to~~] hold more than one elective Town public office at any one time.

B. IN THE EVENT THAT NO QUALIFIED CANDIDATE FILES FOR THE OFFICE OF MAYOR OR ONE OR MORE COUNCIL SEATS ON OR BEFORE THE SECOND MONDAY IN MAY PRIOR TO THE ELECTION AS REQUIRED HEREIN, THEN THE DEADLINE FOR RECEIPT OF CERTIFICATES OF NOMINATION AND AUTHORIZATIONS IS EXTENDED TO THE THIRD MONDAY IN MAY PRIOR TO THE ELECTION.

C. NO CERTIFICATES OF NOMINATION FOR AN INDIVIDUAL SHALL BE CONSIDERED VALID UNLESS THAT INDIVIDUAL POSSESSES ALL THE REQUIRED QUALIFICATIONS FOR THE OFFICE SOUGHT BY THE DATE OF FILING.

Section 7. Article VII, "Registration, Nominations and Elections", Section 709, "Election of the Mayor and the Council Members" of the Town Charter is repealed, re-enacted and amended as follows:

Section 709. Election of the Mayor and the Council Members

A. On the first Monday in June in every even numbered year, the voters of the Town shall elect the Mayor and two (2) persons as Council Members. On the first Monday in June in every odd numbered year, the registered voters of the Town shall elect two (2) persons as Council Members. The Mayor and the Council Members shall serve for terms of two (2) years.

B. WHEN A STATE OF EMERGENCY HAS BEEN DECLARED FOR THE TOWN BY THE MAYOR AND COUNCIL, OR BY THE STATE OF MARYLAND OR MONTGOMERY 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.

C. THE MAYOR AND COUNCIL MAY BY RESOLUTION:

1. AUTHORIZE AN ELECTION TO BE CONDUCTED IN WHOLE OR IN PART BY MAIL, AND
2. MAKE PROVISION FOR A DROP-BOX FOR BALLOTS AT TOWN HALL.

Section 8. Article VII, "Registration, Nominations and Elections", Section 710 "Conduct of Elections" of the Town Charter is repealed, re-enacted and amended as follows:

Section 710. Conduct of Elections

It is the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The Board of Supervisors of Elections shall keep the polls open from 6:00 p.m. to 9:00 p.m. on election days or for [~~longer~~] SUCH hours [~~if~~] THAT the Council BY RESOLUTION requires. The Board of Supervisors of Elections shall provide for absentee ballots.

AS OF THE DEADLINE FOR NOMINATION SET FORTH IN SECTION 708, IF THE NUMBER OF QUALIFIED CANDIDATES IS NOT MORE THAN THE NUMBER OF SEATS TO BE FILLED, THEN NO ELECTION WILL BE HELD, AND THE QUALIFIED CANDIDATES SHALL BE DECLARED ELECTED FOR THE TERM BY THE BOARD OF SUPERVISORS OF ELECTIONS AT THE NEXT PUBLIC MEETING OF THE MAYOR AND COUNCIL.

Section 9. Article VII, "Registration, Nominations and Elections", Section 712 "Vote Count" of the Town Charter is repealed, re-enacted and amended as follows:

Section 712. Vote Count

Within twenty-four (24) hours after the closing of the polls, OR AS SOON AS PRACTICABLE THEREAFTER, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Mayor of the Town who shall order the results recorded in the minutes of the Council. The candidate for Mayor with the highest number of votes in the general election shall be declared elected as Mayor. The two (2) COUNCIL MEMBER candidates [~~for Council Members~~] with the highest

number of votes in the [~~municipal~~] GENERAL election shall be declared elected as Council Members.

IF TWO OR MORE CANDIDATES FOR MAYOR, OR THREE OR MORE CANDIDATES FOR COUNCILMEMBER, RECEIVING THE HIGHEST NUMBER OF VOTES, RECEIVE AN EQUAL NUMBER OF VOTES, THE MAYOR AND COUNCIL SHALL DIRECT THE BOARD OF SUPERVISORS OF ELECTIONS TO ADMINISTER A SPECIAL ELECTION. THE SUPERVISORS OF ELECTIONS SHALL DECLARE THE CANDIDATE FOR MAYOR, AND THE TWO COUNCIL MEMBER CANDIDATES, RECEIVING THE HIGHEST NUMBER OF VOTES IN THE SPECIAL ELECTION TO BE ELECTED TO THE RESPECTIVE OFFICES.

Section 10. Article VII, "Registration, Nominations and Elections", Section 714 "Vacancies" of the Town Charter is repealed, re-enacted and amended as follows:

Section 714. Vacancies

A. In the case of a vacancy for any reason in the position of Council Member which occurs ninety (90) days or more prior to the expiration of the term, a special election shall be called within sixty (60) days to fill such vacancy for the unexpired term. [~~In the case of~~] FOR any such vacancy [~~which~~] THAT occurs less than ninety (90) days prior to the expiration of the term [~~vacancy for the unexpired term shall be~~] OFFICE SHALL REMAIN VACANT UNTIL filled at the next general election.

B. In the case of a vacancy in the office of Mayor for any reason, which occurs ninety (90) days or more prior to the expiration of the term, a special election shall be called within sixty (60) days to fill such vacancy for the unexpired term. In the case of any such vacancy which occurs less than ninety (90) days prior to the expiration of [~~the expiration of~~] the term, the [~~vacancy for the unexpired term shall be~~] OFFICE SHALL REMAIN VACANT UNTIL filled at the next general election[~~, provided that such term shall not expire on the second Monday after such election~~].

Section 11. **BE IT FURTHER RESOLVED** that this Charter Resolution was introduced on the 14th day of December, 2020 and was considered for adoption after a public hearing. It is adopted this 8th day of February, 2021, after at least 21 days of prior public notice of the public hearing and shall be and become effective upon the fiftieth (50th) day after its passage by the Town unless petitioned to referendum in accordance with §4-304 *et seq.* of the Local Government Article, Annotated Code of Maryland, within forty (40) days following its passage. A complete and exact copy of this Charter Resolution shall be posted in the Town

offices located at 3710 Mitchell Street, Kensington, Maryland 20895 for forty (40) days following its passage by the Mayor and Council and a fair summary of the Charter Resolution shall be published in a newspaper having general circulation in the Town not less than four (4) times, at weekly intervals, also within the forty (40) day period following its adoption by the Town .

Section 12. **BE IT FURTHER RESOLVED** that after the Charter Resolution hereby enacted becomes effective, either as herein provided or following referendum, the Town Manager for the Town of Kensington shall send separately, by certified mail, return receipt requested, to the Department of Legislative Reference, the following information concerning the Charter Resolution: (i) the complete text of this Resolution; (ii) the date of referendum election, if any, held with respect thereto; (iii) the number of votes cast for and against this Resolution by the Council of the Town of Kensington or in the referendum; and (iv) the effective date of the Charter Resolution.

Section 13. **BE IT FURTHER RESOLVED** that if any provision of 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 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 are hereby declared to be severable.

INTRODUCED by the Mayor and Council of the Town of Kensington, Maryland at a regular meeting on the 14th day of December, 2020.

ADOPTED by the Mayor and Council of the Town of Kensington, Maryland in public meeting assembled on the 8th day of February, 2021.

EFFECTIVE the 30th day of March, 2021.

ATTEST:

Susan Engels

Susan Engels, Town Clerk-Treasurer

TOWN OF KENSINGTON

By _____

Tracey Furman, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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Suellen M. Ferguson, Town Attorney