

TOWN OF NORTH BRENTWOOD

CHARTER AMENDMENT RESOLUTION NO. 01-2020

Introduced by: Councilmember Dame
Seconded by: Councilmember Wiley
Date of Introduction & Adoption: April 21, 2020

A CHARTER AMENDMENT RESOLUTION OF THE COUNCIL OF THE TOWN OF NORTH BRENTWOOD AMENDING SECTION 504 (ARTICLE V THE MAYOR; POWERS AND DUTIES) AND SECTION 715 (ARTICLE VII REGISTRATION, NOMINATION, AND ELECTIONS; REGULATION AND CONTROL BY COUNCIL) TO AUTHORIZE THE TOWN COUNCIL TO PROVIDE BY ORDINANCE FOR THE SUSPENSION OF CERTAIN TIME CONSTRAINTS AND THE MODIFICATION OF CERTAIN PROVISIONS OF THE CHARTER RELATING TO THE CONDUCT OF REGISTRATIONS, NOMINATIONS AND ELECTIONS, DURING A DECLARED LOCAL OR STATE EMERGENCY AND UPON PROVIDING CERTAIN NOTICE; AND CLARIFYING THAT THE MAYOR MAY EXERCISE CERTAIN EMERGENCY POWERS; AND GENERALLY RELATING TO TOWN ELECTIONS AND MAYORAL POWERS.

WHEREAS, the Town of North Brentwood, Maryland pursuant to its Charter is scheduled to hold a Municipal Election on the “first Monday of May” or the 4th day of May 2020; and

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 typically 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 requiring the legislative body of a municipality to 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

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WHEREAS, the Governor of Maryland, as of March 5, 2020, has declared a state of emergency and catastrophic health emergency for the epidemic known as COVID-19, and the Governor has postponed the upcoming State primary election and taken other extraordinary measures; and

WHEREAS, the Governor's Order dated March 12, 2020 states that "[t]he head of each unit of State or local government may, upon a finding that the suspension [of legal time requirements] will not endanger the public health, welfare, or safety, and after notification to the Governor, suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule, or regulation that it administers... [and] that the unit head shall provide reasonable public notice of any such suspension..."; and

WHEREAS, the Governor's Office of Counsel and the Town Attorney has opined that in order to properly suspend or modify the conduct of election requirements found in a municipal charter, that a charter amendment resolution should be passed along with an appropriate notice and/or proclamation issued pursuant to a civil emergency powers ordinance that suspends the state statutory procedures (Subtitle 3 of Title 4 of the LG Art.) for adopting a charter amendment resolution, in part, because the Governor can order the suspension of deadlines and timelines in state statutes; but, in the opinion of the Governor's counsel, the Governor cannot suspend the Constitution of Maryland, which expressly requires that a charter amendment resolution be adopted pursuant to Article XI-E (Municipal Home Rule) in order to abrogate the elections procedures and requirements (e.g., the method of voting such as solely by mail, drop box or some other means contrary to the current Charter); and

WHEREAS, the Governor's Order (No. 20-03-30-03) entitled "Enabling Municipalities to Postpone Elections," dated March 30, 2020 states that "[a] municipality may suspend the effect of a provision of Title 4, Subtitle 3 of the Local Government Article of the Maryland Code if...the municipality provides notice to the Governor; and finds that such suspension will not endanger the public health, welfare or safety; and is necessary to amend; a. the date on which the 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 the election results; and B. [t]he provision regards: i. [p]ublic hearings to be held on proposed amendments to the municipal charter; or ii. [t]he date the amendments shall take effect as part of the municipal charter after the resolutions are adopted"; and

WHEREAS, Section 715 of the Charter empowers the Town Council to provide by ordinance in every respect not covered by the provisions of the Town Charter for the conduct of registration, nomination, and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud; and

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WHEREAS, the Mayor and Town Council find that during the current State and/or locally declared emergency it is in the best interest the Town to immediately amend the Town Charter to provide the Mayor and Council with the authority to cause the modification of certain election procedures and timelines, and that that the Governor's Emergency Order dated March 12 & 30, 2020 allowing for the abrogation of legal and regulatory timeframes found in State statutes for adopting this charter amendment resolution should be invoked to change and modify the procedural requirements found in the relevant State statutes to allow this charter amendment resolution to take effect immediately or soon after its passage.

SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF NORTH BRENTWOOD on this _____ day of April 2020 that Section 504 (Powers and Duties) and Section 715 (Regulation and Control by Council) of the Charter of the Town of North Brentwood shall be and are hereby amended and readopted to read as follows:

ARTICLE V The Mayor

Section 504. Powers and Duties.

(a) Generally. The Mayor shall be the chief executive and administrative officer of the Town government who shall enforce the laws of the Town of North Brentwood and generally administer the day to day affairs of the Town.

(g) Other Powers and Duties. The Mayor shall have such other powers and perform such other duties as may be prescribed by this Charter or as may be required by the Council, not inconsistent with this Charter, INCLUDING BUT NOT LIMITED TO THOSE POWERS DELEGATED TO THE MAYOR BY ORDINANCE, STATE STATUTE OR THE GOVERNOR'S PROCLAMATIONS TO BE EXERCISED DURING DECLARED CIVIL EMERGENCIES.

ARTICLE VII Registration, Nomination, and Elections

Section 715. Regulation and Control by Council.

(A) The Council shall have the power to provide by ordinance in every respect not covered by the provisions of this Charter for the conduct of registration, nomination, and Town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

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(B) THE COUNCIL MAY AUTHORIZE BY ORDINANCE THAT DURING A DECLARED LOCAL (MUNICIPAL) OR STATE EMERGENCY AND UPON A FINDING THAT THE SUSPENSION, MODIFICATION OR CHANGE WILL NOT ENDANGER THE PUBLIC HEALTH, WELFARE OR SAFETY AND AFTER REASONABLE NOTIFICATION TO THE GOVERNOR AND THE PUBLIC:

(1) THE MAYOR OR COUNCIL MAY SUSPEND THE EFFECT OF ANY LEGAL OR PROCEDURAL DEADLINE, DUE DATE, TIME OF DEFAULT, TIME EXPIRATION, PERIOD OF TIME, OR OTHER TIME OF AN ACT OR EVENT DESCRIBED WITHIN THIS CHARTER REGARDING THE CONDUCT OF REGISTRATION, NOMINATION, AND TOWN ELECTIONS; AND

(2) THE MAYOR OR COUNCIL MAY MODIFY OR CHANGE THE PROVISIONS OF THIS CHARTER FOR THE SAFE AND EFFICIENT CONDUCT OF REGISTRATION, NOMINATION, AND TOWN ELECTIONS AND FOR THE PREVENTION OF FRAUD IN CONNECTION THEREWITH, AND FOR A RECOUNT OF BALLOTS IN CASE OF DOUBT OR FRAUD.

SECTION 2. AND BE IT FURTHER RESOLVED that, unless an emergency proclamation, notice or resolution issued subsequently states otherwise, this Charter Amendment Resolution is adopted on the aforementioned date, and that upon a hearing and adoption by the Town Council, 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; and, additionally, unless a proclamation, notice or resolution states otherwise, a fair summary of the proposed Amendment shall be published in a newspaper of general circulation in the Town of North Brentwood not less than four (4) times at weekly intervals within the forty (40) days following the adoption this Charter Amendment Resolution, and the Clerk to the Council shall further endeavor, as much as practical, to publish a summary or a complete copy of this resolution by as many methods of communication as are reasonably possible of the following: posting on the Town's website, newsletter, the Cable TV channel, or any appropriate list serve.

SECTION 3. AND BE IT FURTHER RESOLVED that unless an emergency proclamation or other authorized resolution or notice (See Attachment A, below) suspending, modifying or changing the applicable timelines and procedural constraints states otherwise, the Amendment initiated in this Charter Amendment Resolution shall take effect and shall become and be considered the Charter of the Town of North Brentwood, 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 Town or mailed to it by certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

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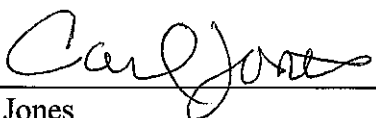
SECTION 4. AND BE IT FURTHER RESOLVED that the Amendment initiated in this Charter Amendment Resolution shall not be subject to veto or final approval by the Mayor unless there is a tie vote, and unless an emergency proclamation or other authorized resolution or notice (See Attachment A, below) suspending, modifying or changing the applicable timelines and procedural constraints states otherwise, shall take effect and shall become and be considered the Charter of the Town of North Brentwood, upon the fiftieth day after being so adopted 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 Council of the Town of North Brentwood or mailed to it by certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

SECTION 5. AND 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 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 Council of the Town of North Brentwood or a referendum election; and (iv) the effective date of the Charter Amendment.

SECTION 6. AND BE IT FURTHER RESOLVED that the Town Clerk of the Town of North Brentwood is specifically instructed to carry out the provisions of Sections 2, 3, 4 and 5 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 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 3, and shall further complete and execute the Certificate of Effect attached hereto.

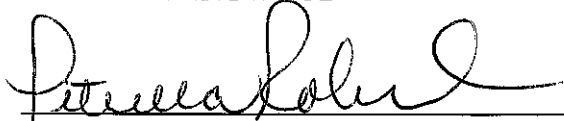
THIS CHARTER AMENDMENT RESOLUTION IS INTRODUCED AND ADOPTED BY THE COUNCIL OF THE TOWN OF NORTH BRENTWOOD THIS 2nd day of April 2020.

ATTEST:



Carl Jones
Town Clerk

TOWN COUNCIL FOR TOWN OF
NORTH BRENTWOOD



Petrella Robinson
Mayor

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Charles Wiley

Charles Wiley
Councilman, Ward/Seat I

Aaron Baynes

Aaron Baynes
Councilman, Ward/Seat II

Evan Dame

Evan Dame
Councilman, Ward/Seat III

CERTIFICATE OF EFFECT

I, HEREBY CERTIFY THAT THE FOREGOING CHARTER AMENDMENT RESOLUTION OF THE TOWN COUNCIL FOR THE TOWN OF NORTH BRENTWOOD DESIGNATED AS CHARTER AMENDMENT RESOLUTION NO. 01-2020 WAS DULY INTRODUCED, READ, AND WAS ADOPTED BY THE COUNCIL AT A DULY ANNOUNCED PUBLIC MEETING AND THEREAFTER POSTED AND ADVERTISED IN A REASONABLE MANNER, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE ANNOTATED CODE OF MARYLAND, THE CHARTER OF THE TOWN OF NORTH BRENTWOOD, AND THE ORDER OF THE GOVERNOR (NO. 20-03-30-03) ENTITLED "ENABLING MUNICIPALITIES TO POSTPONE ELECTIONS," DATED MARCH 30, 2020.

ATTEST:

Carl Jones

Carl Jones, Town Clerk
Town of North Brentwood

DATE OF PUBLIC NOTICE

DATE OF INTRODUCTION/PASSED

POSTING END DATE:

FAIR SUMMARY NEWSPAPER

PUBLICATION DATES (if any)

EFFECTIVE DATE:

April 2, 2020

April 6, 2020

April 2, 2020 through

April 6, 2020

April 4, 2020

CAPITALS

[Brackets]

Asterisks * * *

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ATTACHMENT A – CHARTER AMENDMENT RESOLUTION 01-2020

TOWN OF NORTH BRENTWOOD – NOTICE TO GOVERNOR AND PUBLIC

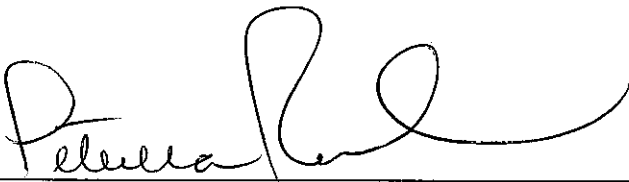
This notice is given by Mayor Robinson of the Town of North Brentwood, Maryland acting pursuant to the Proclamation of Governor Lawrence J. Hogan, Jr. (the “Governor”) dated March 5, 2020, proclaiming a state of emergency and a catastrophic health emergency related to COVID-19, as it may be amended or renewed from time to time, and the Order of the Governor dated March 12, 2020, entitled “Extending Certain Licenses, Permits, Registrations, and Other Governmental Authorizations, and Authorizing Suspension of Legal Time Requirements;” and, the Governor’s Order (No. 20-03-30-03) entitled “Enabling Municipalities to Postpone Elections,” dated March 30, 2020.

The time frame modification applies to the Town of North Brentwood’s Charter Amendment Resolution 2020-01, identifying the statutory provisions found in Subtitle 3 of Title 4 of the LG Art. of Md. Ann. Code and namely § 4-304 of said Art. Said Charter Amendment Resolution shall take effect immediately after a public hearing to be held on April 2, 2020. Notice of the hearing by posting the notice at the main municipal building for no less than one (1) day, and posting an exact copy of the resolution at the main municipal building for two (2) days after said resolution is adopted, and publishing a fair summary of the proposed amendment on the Town’s website after the resolution is adopted. Any effect of Subtitle 3 of Title 4 of the LG Art. of Md. Ann. Code inconsistent with the foregoing is hereby suspended.

This Notice is effective immediately and shall remain in effect until 30 days after the state of emergency has been terminated and the proclamation of the catastrophic health emergency has been rescinded.

TOWN OF NORTH BRENTWOOD

Date: 20/2/2020

By: 
Petrella Robinson, Mayor