

Special Session

Agenda Item #	3
Meeting Date	October 22, 2012
Prepared By	Susan Silber, City Attorney
Approved By	Suzanne Ludlow, Acting City Manager

Discussion Item	Charter Amendment Resolution Amending Article VII, The City Manager, of the Takoma Park Municipal Charter to: (1) Establish a Residency Requirement for the City Manager; and (2) Require Council Confirmation of the City Manager's Appointment of the Deputy City Manager, City Clerk, Treasurer, and City Department Head Positions.
Background	<p>The position of City Manager is established by the Takoma Park Charter. Under the Charter, the City Manager is solely responsible for the appointment of City employees, and the Charter expressly prohibits the City Council from participating in the selection of City employees. The Charter does not address the issue of whether the City Manager or any other executive City employees must become residents of the City as a condition of employment.</p> <p>The proposed Charter Amendment Resolution would amend the Charter to (1) require that the City Manger become a resident of the City as a condition of employment unless the City Council waives the requirement; (2) permit the City Council to participate in the City Manager's appointment of executive employees by requiring the Council's confirmation of appointees; and (3) authorize the Council, by ordinance, to establish residency requirements and/or residency preferences for specified executive employees who report directly to the City Manager.</p>
Policy	The proposed Charter Amendment would strengthen the ties between the City's executive staff and the Takoma Park community and also would give the City Council final authority in the selection of key City employees who then will aid the Council in developing and implementing public policy and administering the laws of the City.
Fiscal Impact	N/A
Attachments	Proposed Charter Amendment Resolution
Recommendation	Vote on the proposed Resolution at first reading.
Special Consideration	This proposed Resolution should be considered in conjunction with the related proposed Ordinance and the alternative proposed Ordinance that will be before the Council at the Special Session.

Introduced by:

Introduction and First Reading:

Second Reading and Adoption:

CITY OF TAKOMA PARK, MARYLAND

CHARTER AMENDMENT RESOLUTION NO. 2012-1

A Resolution to Amend the City of Takoma Park Municipal Charter to Establish a Residency Requirement for the City Manager and to Require Council Confirmation of the City Manager's Appointment of the Deputy City Manager, City Clerk, Treasurer, and City Department Heads.

WHEREAS, the Council seeks to strengthen the ties between the City Manager and the community of City of Takoma Park by requiring the City Manager to reside within the City limits; and

WHEREAS, the Council desires to have a greater role in the appointment of unclassified executive City employees (*i.e.*, the Deputy City Manager, Clerk, Treasurer, and City Department Head Positions) by requiring the Council to confirm the City Manager's appointment of such executive City employees; and

WHEREAS, the Council seeks to maintain the City Manager's authority over the removal of officers and employees and, except for confirmation of the City Manager's appointment of executive City employees, to preserve the current Charter requirement that the Council not take part in the City Manager's appointment or removal of officers and employees.

SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, pursuant to Article XI-E of the *Constitution of the State of Maryland*, Article 23A of the *Annotated Code of Maryland*, and Article V, Amendment Procedures of the *City of Takoma Park Municipal Charter*, that the *City of Takoma Park Municipal Charter* is amended as follows:

ARTICLE VII THE CITY MANAGER

Section 701. Powers and Duties

The City Manager shall be the chief administrative officer of the city, may head one or more departments, and shall be responsible to the City Council for the proper administration of all affairs of the City. The City Manager shall serve at the pleasure of the council and may be removed by an affirmative vote of four (4) of its members. To that end, the Manager shall have the power and shall be required to:

(a) Appoint and, when necessary for the good of the City, suspend or remove other applicable officers and employees of the city except as otherwise provided by the City Charter or applicable law. THE CITY MANAGER'S APPOINTMENT OF A DEPUTY CITY MANAGER, CITY CLERK, TREASURER, AND THE HEADS OF CITY DEPARTMENTS SHALL BE SUBJECT

TO CONFIRMATION BY THE COUNCIL PRIOR TO APPOINTMENT. The City Manager may authorize the head of a department or office to appoint, suspend, or remove subordinates in such department or office.

- (b) Prepare the budget annually and submit it to the Council together with a message describing the important features and be responsible for its administration after adoption.
- (c) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City Council for the preceding year.
- (d) Keep the Council advised of the financial condition and future needs of the City, and make such recommendations as may be deemed desirable.
- (e) Recommend to the governing body a standard schedule of pay for each appointive office and position in the City service, including minimum, intermediate, and maximum rates.
- (f) Recommend to the governing body (from time to time), adoption of such measure as may be deemed necessary or expedient for the health, safety, or welfare of the community or for the improvement of administrative services.
- (g) Consolidate or combine offices, positions, departments, or units under his/her jurisdiction, with the approval of the City Council. The City Manager may be the head of one or more departments.
- (h) Attend all meetings of the City Council unless excused there from and take part in the discussion of all matters coming before the Council. The Manager shall be entitled to notice of all regular and special meetings of the Council.
- (i) Supervise the purchase of all materials, supplies, and equipment for which funds are provided in the budget; let contracts necessary for operation or maintenance of the City services as provided in the City Code.
- (j) See that all laws and ordinances are duly enforced.
- (k) Investigate the affairs of the City or any department or division thereof. Investigate all complaints in relation to matters concerning the administration of the government of the City, and in regard to service maintained by the public utilities in the City, and see that all franchises, permits, and privileges granted by the City are faithfully observed.
- (l) Devote his/her entire time to the discharge of all official duties unless otherwise authorized by the Council.
- (m) Perform such other duties as may be required by the Council, not inconsistent with the City Charter, law, or ordinances.

Section 702. Council Not to Interfere with Appointments or Removals

Neither the Council nor any of its members shall direct or request the appointment of any person to,

or removal from, office by the City Manager or any of the manager's subordinates or in any manner take part in the appointment or removal of officers and employees in the administrative services of the City, EXCEPT THAT THE COUNCIL, BY ORDINANCE, MAY ESTABLISH A REQUIREMENT THAT NEWLY-HIRED UNCLASSIFIED SERVICE EMPLOYEES RESIDE IN OR NEAR THE CITY LIMITS OR A PREFERENCE FOR NEW UNCLASSIFIED SERVICE EMPLOYEES WILLING TO RESIDE IN OR NEAR THE CITY LIMITS. Except for the purpose of inquiry, the Council and its members shall deal with the administration solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

Section 703. Emergencies

In case of accident, disaster, or other circumstance creating a public emergency, the City Manager may award contracts and make purchases for the purpose of meeting said emergency; but the manager shall file promptly with Council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.

Section 704. Compensation

The City Manager shall receive such compensation as the Council shall fix from time to time by ordinance or resolution.

SECTION 705. RESIDENCY

THE CITY MANAGER SHALL MAINTAIN HIS OR HER PRINCIPAL RESIDENCE WITHIN THE CITY LIMITS. THE CITY MANAGER NEED NOT BE A RESIDENT OF THE CITY OR STATE AT THE TIME OF APPOINTMENT TO THE OFFICE, BUT MAY RESIDE OUTSIDE OF THE CITY WHILE IN OFFICE ONLY WITH THE APPROVAL OF THE COUNCIL FOR REASONS OF HARDSHIP OR OTHER GOOD CAUSE.

Section ~~[705]~~ 706. Absence of the City Manager

The City Manager shall designate by letter filed with the City Clerk and Mayor, a qualified employee of the City to perform the duties of the office during any temporary absence or disability. In the event of failure of the City Manager to make such designation, the Council may by resolution appoint a qualified employee of the City to perform the duties of the office until the return or cessation of disability of the City Manager.

SECTION 2. BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, that the date of adoption of this Charter Amendment Resolution is _____, 2012, and the amendment of the *City of Takoma Park Municipal Charter* enacted by this Resolution shall become effective on _____, 2012 (50 days after its passage), unless a proper petition for referendum shall be filed as permitted by Section 502 of the *City of Takoma Park Municipal Charter* and *Annotated Code of Maryland*, Article 23A, Section 13. A complete and exact copy of this Charter Amendment Resolution shall be continuously posted on a bulletin board at the Takoma Park Community Center and Sam Abbott Citizens' Center from _____, 2012, until _____, 2012, (a period of at least 40 days following its adoption), and a fair summary of the

proposed Charter amendment shall be published in a newspaper of general circulation in the City of Takoma Park once a week for four weeks within 40 days after passage of this Charter Amendment Resolution.

SECTION 3. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, that the City Clerk is specifically directed to carry out the provisions of Section 2 of this Resolution and, as evidence of this compliance, the City Clerk shall maintain appropriate certificates of the publication of the newspaper in which the fair summary of the Charter Amendment Resolution shall have been published. If a favorable referendum is held on the proposed amendment, the Council shall proclaim the proposed Charter Amendment hereby enacted to have been approved by the voters and the Charter Amendment shall become effective on the date provided by law.

SECTION 4. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, that as soon as the Charter Amendment enacted by this Resolution shall become effective, either as provided in this Resolution or following a referendum, the City Clerk shall send to the Department of Legislative Services of Maryland the following information concerning the Charter Amendment Resolution: (1) the complete text of this Charter Amendment Resolution; (2) the date of the referendum election, if any; (3) the number of votes, whether in the Council or in a referendum, cast for or against the Charter Amendment enacted by this Resolution; and (4) the effective date of the Charter Amendment.

THE ABOVE CHARTER AMENDMENT was enacted by the foregoing Charter Amendment Resolution No. 2012-1 which was passed at a meeting of the Council of the City of Takoma Park, Maryland, on the ____ day of _____, 2012, ____ members of the Council voting in the affirmative, ____ members of the Council voting in the negative, ____ members of the Council abstaining, and ____ members of the Council absent, and the said Charter Amendment Resolution becomes effective in accordance with the law on the ____ day of _____, 2012.

THIS CHARTER AMENDMENT RESOLUTION IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK THIS ____ DAY OF _____, 2012, BY ROLL CALL VOTE AS FOLLOWS:

Aye:

Nay:

Abstain:

Absent:

Explanatory Note

1. UNDERLINING AND ALL CAPITAL LETTERS indicate language being added to the Charter.
2. **[Bold and strikethrough]** indicates language being deleted from the Charter.

[Signature page for Charter Amendment Resolution No. 2012-1.]

COUNCIL OF THE CITY OF TAKOMA PARK

Bruce R. Williams, Mayor

Seth Grimes, Councilmember, Ward 1

Tim Male, Councilmember, Ward 2

Kay Daniels-Cohen, Councilmember, Ward 3

Terry J. Seamens, Councilmember, Ward 4

Jarrett K. Smith, Councilmember, Ward 5

Frederick L. Schultz, Councilmember, Ward 6

ATTEST:

Jessie Carpenter, City Clerk

Date: _____

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