

BOARD of COMMISSIONERS of HIGHLAND BEACH
Charter Amendment No. CA 2023-02

Introduced by Mayor Sanders
(Selected Excerpts from the Charter Amendment-Summary)

A RESOLUTION concerning

CHARTER AMENDMENT—VOTER QUALIFICATIONS AND REGISTRATION

FOR the purpose of amending the Charter of the Town of Highland Beach to alter the qualifications for voting in Town municipal elections by certain persons who are not domiciled in the Town.

BY repealing and reenacting, with amendments
Charter of the Town of Highland Beach
ARTICLE V, Elections
Section 501

EXPLANATORY STATEMENT: The Town of Highland Beach was founded by the Douglass family in 1893 as a place of summertime respite for African-American residents of the Baltimore-Washington area, and was incorporated as the first African-American municipality in Maryland in 1922. Given the historic nature of the Town’s founding and existence, one of the most vital roles that the Town government plays is in preserving the character, historic heritage and culture of the Town, a goal shared by most of the Town’s property owners and inhabitants, regardless of whether or not they are domiciliaries of the Town.

During the summer months virtually all dwellings in Highland Beach are occupied and the population of Highland Beach swells to approximately 600 persons as non-domiciliary owners and their extended families come to spend their summer vacations renewing family ties and friendships and enjoying the amenities of the Town, its beach and the Chesapeake Bay. There is no non-residential property in the Town, other than open space and Town-owned property.

Notwithstanding their part-time use of their dwellings, many non-domiciliary owners and their families have been, and remain, active participants in the Town’s affairs.

Town elections have historically been extended to non-domiciliary persons who have a demonstrated connection to the Town, exhibited by the amount of time they spend in the town, even though they made their domicile elsewhere. The most recent and current charter amendment sought to create a structured and fair system in order to continue that tradition; however, it has become readily apparent in the intervening election years that the system in place is wholly inadequate and is vulnerable to substantial abuse. To wit, there is no system or procedure in place to verify or to challenge assertions by non-domicile residents and their

guests, that claim to meet the visitation time requirement set forth in existing Section 506. Furthermore, that provision results, in effect, in disenfranchisement of residents having domiciles in Town. In the case of *Tobin v. Town of North Beach*, the U.S. District Court for Maryland held that "...permitting non-resident property owners to vote dilutes the votes of bonafide residents in violation of the U.S. Constitution's Fourteenth Amendment."¹ Further, according to the American Civil Liberties Union Foundation of Maryland, "The Court further suggested that Article 23A, Section 46 of the Maryland Code similarly prohibits consideration of property ownership as an aspect of enfranchisement."²

Now, therefore,

SECTION 1. BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF HIGHLAND BEACH,

That Section 501 of the Charter of the Town of Highland Beach is repealed and reenacted, with deletions, to read as follows (Section 506 is repeated unchanged for clarity):

ARTICLE V- Elections

Section 501. Qualifications of Voters

A qualified voter of the town is a person who:

- (a) is a citizen of the United States
- (b) will be at least 18 years old on or before the date of the next town election

and

(1) is a legal resident of the town and is registered to vote in Anne Arundel County or town elections, or

(2) is not a legal resident of the town but ~~inhabits a dwelling in the town for at least sixty (60) days during the twenty-four (24) month period immediately preceding a town election and is registered to vote in that election.~~ is a part time resident listed in the Maryland

Department of Assessments and Taxation (SDAT) as owner or trustee of a property in Highland Beach and is registered to vote in that election, or

(a) is the spouse of a part time resident so listed, and is registered to vote in that election, or

(b) can demonstrate ownership as a deeded owner in Highland Beach by way of a trust or other such legal conveyance, and is registered to vote in that election.

Section 506. Registration

¹ *Municipal Elections*, by Kevin J. Best, Manager, Research & Information Management, Maryland Municipal League, February 2001.

² ACLUF Eastern Shore letter dated June 10, 1993, from Deborah A. Jeon, Staff Attorney

Registration with the Anne Arundel County Board of Elections by a qualified voter who has legal residence within the corporate limits shall be deemed registration for town elections. The town shall maintain a supplemental system of registration for persons meeting the qualifications to vote as set forth in Section 501 but who are not registered to vote with the Anne Arundel County Board of Elections. Any person who is qualified to vote and who is not registered to vote with the Anne Arundel County Board of Elections may request to be registered or reregistered as a voter in town elections by written application to the town Board of Supervisors of Elections. The application may be made in person or by mail, but must be received by the Board at least thirty (30) days prior to the date of the next election. Supplemental registration with the town shall not be permanent, and no person may vote in a town election unless registered for that election. A person who registers to vote in an election as part of the town's supplemental registration shall be deemed a qualified voter of the town until the next town election, and shall be deemed a qualified voter in the next election unless that person reregisters for the next election. The Board of Commissioners shall adopt any ordinances necessary to establish and maintain a supplemental system of registration and reregistration.

Adopted this day of , 2023

Add mayor, commissioners to sign and date, and town manager to attest

William H. Sanders III, Mayor

Sheila Murchison, Commissioner

Benjamin Secundy, Commissioner

Eric Brewington, Commissioner

Michele Fuller, Commissioner

Attest: Lisa Miller Scott, Town Manager