

Clerk's Note: For clarity, "Question B" was changed to "Question A"

Resolution No.:	19-1358
Introduced:	July 12, 2022
Adopted:	July 26, 2022

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Albornoz

SUBJECT: Proposed Amendment to County Charter

Background

1. Section 5 of Article XI-A of the Maryland Constitution, §7-102(c)(3)(i) of the Election Law Article of the Maryland Code, and §16-14 of the Montgomery County Code provide that amendments to the Charter of Montgomery County may be proposed by a resolution of the County Council. Section 5 of Article XI-A of the Constitution also provides that amendments to the Charter may be proposed by a petition signed by at least 10,000 registered voters of the County and filed with the President of the County Council.
2. Under §7-103(c)(3)(i) of the Election Law Article of the Maryland Code, ballot questions for proposed Charter amendments must be certified to the State Board of Elections not later than the 95th day before the general election. County Code §16-16 provides that a ballot title or summary, prepared by the County Council, of all proposed Charter amendments must appear in print on the voting machine or ballot.
3. The Council intends to submit for inclusion on the 2022 general election ballot:

Question A: County Attorney – Removal Procedures, which would amend §213 of the Charter.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

1. Subject to the approval of the County Attorney as to the form of the questions, the following Charter amendment must be placed on the 2022 general election ballot:

A

County Attorney – Removal Procedures

The County Council proposes to amend Section 213 of the Charter of Montgomery County as follows:

Sec. 213. County Attorney.

The County Executive shall appoint a County Attorney, subject to confirmation by the Council. The County Attorney shall be the chief legal officer of the County, conduct all the law business of the County, be a legal advisor to the Council, and be the legal advisor to the County Executive, all departments, and other instrumentalities of the County Government. The County Attorney shall represent the County in all actions in which the County is a party. The County Attorney and the staff of the office shall engage in no other law practice. The County Attorney may, with the approval of the Council, temporarily employ special legal counsel to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the County Attorney.

The County Attorney shall serve at the pleasure of the County Executive and the Council [but, upon request, shall be entitled to a public hearing before the Council prior to dismissal from office]. If the County Executive removes the County Attorney, the Council must approve or disapprove the removal by an affirmative vote of six Councilmembers within 30 days of receiving notice of the removal. The County Executive must provide notice of the removal to the County Council within 3 days. If the Council does not act within 30 days, the County Attorney must not be removed. The County Attorney may also be removed by an affirmative vote of seven Councilmembers, with the consent of the County Executive. The County Council must provide notice of the removal to the County Executive within 3 days. The County Executive must approve or disapprove the removal within 15 days of receiving notice of the removal. If the County Executive does not act within 15 days, the County Attorney must not be removed. During the period of time before removal is confirmed, the County Attorney must be put on paid leave.

The ballot for this question must be designated and read as follows:

Question A**Charter amendment by act of County Council****County Attorney – Removal**

Amend Section 213 of the County Charter to require the consent of both the County Executive and the County Council in order to remove the County Attorney.

This amendment would allow either the County Executive or the Council to initiate removal of the County Attorney. If the County Executive requests removal of the County Attorney, the Council will have 30 days to agree or disagree; if the Council does not respond within 30 days, the County Attorney cannot be removed. If the Council requests removal of the County Attorney, the County Executive will have 15 days to agree or disagree; if the County Executive does not

respond within 15 days, the County Attorney cannot be removed. In the interim, the County Attorney will be placed on paid leave.


FOR AGAINST

This is a correct copy of Council action.



Judy Rupp
Clerk of the Council

Approved as to form and legality:



John Markovs
Acting County Attorney