

THE TOWN OF MOUNT AIRY, MARYLAND

**CHARTER AMENDMENT
RESOLUTION NO. 2021-5**

**A RESOLUTION TO CREATE NEW ARTICLE XIV ENTITLED
“PROTECTION FROM RETALIATION”, AND NEW,
SECTION C14-1 ENTITLED “UNLAWFUL ADVERSE EMPLOYMENT ACTION”,
AND NEW SECTION C14-2 ENTITLED “FALSE STATEMENTS NOT PROTECTED”,
OF THE CHARTER OF THE TOWN OF MOUNT AIRY FOR THE PURPOSE OF
PROVIDING PROTECTION TO TOWN EMPLOYEES FROM ADVERSE
EMPLOYMENT ACTION FOR REPORTING CONCERNS REGARDING HEALTH,
SAFETY OR ENVIRONMENTAL POLICIES OR PRACTICES OF THE TOWN, OR
FOR REPORTING ALLEGED ETHICS VIOLATIONS OF AN ELECTED OR
APPOINTED OFFICIAL OR EMPLOYEE OF THE TOWN**

WHEREAS, pursuant to Article XI-E of the Constitution of Maryland Article of the Md. Code Ann. as currently in effect and Md. Code Ann., Local Gov’t. Article §4-301 *et seq.* as currently in effect, and the Town Charter, Section C12-7, the Town Council of Mount Airy, the legislative body of the Town, has the authority to amend the Charter of the Town, in accordance with the procedures set forth therein; and

WHEREAS, the Town Code and Charter do not presently contain protection for Town employees from adverse employment action, such as discharge, discipline, reduction in compensation or other adverse workplace treatment for reporting unethical conduct to the Town Ethics Commission on the part of any elected or appointed official, or any supervisory employee, or for otherwise participating in an investigation of the Town Ethics Commission; and

WHEREAS, the Town Council have determined it to be in the best interests of the Town to provide protection to its employees from such retaliation, and to better encourage the reporting to, and investigation by, the Ethics Commission of unethical conduct; and

WHEREAS, a public hearing was held on this proposed Charter Amendment on December 6, 2021 as required by Md. Code Ann., Local Gov’t. Article §4-304(a)(2) before this Charter Amendment Resolution was considered for adoption; and

WHEREAS, this proposed Charter Amendment was discussed at a public workshop of the Town Council on October 18, 2022, wherein the Council recommended changes to this resolution; and

WHEREAS, this Charter Amendment Resolution was re-introduced with changes on March 6, 2023 at the Town Council’s regular meeting, and a second public hearing was set; and

WHEREAS, a second public hearing was held on this proposed Charter Amendment on _____, 2023; and

WHEREAS, the Town Council having determined that the proposed changes are in the best interests of the Town and its citizens, hereby enacts those changes to the Town Charter; and

WHEREAS, a complete and exact copy of this Charter Amendment Resolution shall be posted in the Town Hall building or other public place for forty (40) days following its adoption by the Council and a fair summary of the Charter amendment shall be published in a newspaper of general circulation in the Town at least four (4) times, at weekly intervals, within the forty (40) days following adoption of this Charter Amendment Resolution; and

WHEREAS, promptly after this Charter Amendment Resolution becomes effective, either as herein provided or following referendum, the Mayor of the Town shall send or cause to be sent to the Maryland Department of Legislative Services in accordance with Md. Code Ann., Local Gov't. Article §§4-308 and 4-109, the following information concerning this Charter Amendment Resolution: (i) the complete text of the Charter amendment; (ii) the date of referendum election, if any, held with respect thereto; (iii) the number of votes cast for and against this Charter Amendment Resolution by the Council or in a referendum; and (iv) the effective date of the Charter amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:

Section 1. That Article XIV of the Town Charter entitled "Protection from Retaliation", Section C14-1 entitled "Unlawful adverse employment action" and Section C14-2 entitled "False statements not protected" be and are hereby created and enacted as follows:

ARTICLE XIV

Protection from Retaliation

§C14-1. Unlawful adverse employment action.

- A. It shall be unlawful for any Town elected or appointed official, or supervisory employee, to discharge, suspend, reduce the compensation of, otherwise discipline or take adverse employment action against, or threaten to discharge, suspend, reduce the compensation of, otherwise discipline or take adverse employment action against, an employee of the Town because:
- (1) The employee, whether acting as a complainant or on behalf of a complainant, reports or is about to report orally or in writing any alleged violation of the Town's Ethics Chapter;
or
 - (2) The employee, whether acting as a complainant or on behalf of a complainant, participates in an investigation, hearing, or inquiry held by the Town Ethics Commission in conjunction with a complaint filed under the Town's Ethics Chapter or any related court action; or

- (3) The employee, whether acting as a complainant or on behalf of a complainant, reports or is about to report orally or in writing a concern regarding Town policies or practices that may adversely impact the safety and health of employees, the public or the environment;
or
- (4) The employee, whether acting as a complainant or on behalf of a complainant, participates in an investigation, hearing, or inquiry held by the Town in conjunction with a concern or complaint regarding Town policies or practices that may adversely impact the safety and health of employees, the public and the environment.

§C14-2. False statements not protected.

This Article shall not apply to an employee who knowingly files a false complaint or knowingly makes a false statement to the Town Ethics Commission with respect to an alleged violation of the Town’s Ethics Ordinance. Any appointed official or employee found to have knowingly made a false statement or false complaint under this provision shall be subject to discipline under applicable Code provisions and the Town’s Employee Handbook.

Section 2. That any provision of the Town Charter that is inconsistent with this Amendment be and is hereby repealed.

BE IT RESOLVED BY THE AUTHORITY AFORESAID, that this Charter Amendment Resolution shall take effect on the ___ day of _____, 202_, fifty (50) days after adoption of this Charter Amendment Resolution by the Council unless petitioned to referendum in accordance with Md. Code Ann., Local Gov’t. Article §§4-304(d) and 4-307 within 40 days following its adoption.

Introduced on November 1, 2021.

Re-introduced with amendments on March 6, 2023.

Approved this ___ day of _____, 202_ by a vote of _____ in favor and _____ opposed.

ATTEST:

Pamela Reed, Secretary

Jason Poirier,
President of the Town Council

ATTEST:

Pamela Reed, Secretary

Larry Hushour, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.

This ___ day of _____, 202_.

Thomas V. McCarron, Town Attorney

Note: Matter underlined is new material to be added to existing law. Matter in [brackets] and ~~striketrough~~ is proposed to be deleted from existing law.