

**THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN**

**ORDINANCE NO: G-21-08**

**AN ORDINANCE** concerning

**The conduct of elections**

**FOR** the purpose of repealing regulations relating to absentee voting; adding regulations relating to mail-in voting and voter assistance therewith; adding regulations relating to provisional voting; adding a certain notice requirement; allowing certain registered voters who are at least 16 years old to be election judges; allowing a recount of votes only if there is a certain margin of difference; deleting certain references to voting in precincts; requiring voting centers to be structurally barrier-free; clarifying language; making stylistic changes; updating references; and otherwise generally relating to the conduct of municipal elections of The City of Frederick.

**BY** repealing

Section 7-3

The Code of the City of Frederick, 1966 (as amended)

**BY** adding

Section 7-3

The Code of the City of Frederick, 1966 (as amended)

**BY** adding

Section 7-3.1

The Code of the City of Frederick, 1966 (as amended)

**BY** adding

Section 7-3.2

The Code of the City of Frederick, 1966 (as amended)

**BY** repealing and reenacting, with amendments,

Section 7-4

The Code of the City of Frederick, 1966 (as amended)

**BY** repealing and reenacting, with amendments,

Section 7-5

The Code of the City of Frederick, 1966 (as amended)

**BY** repealing and reenacting, with amendments,

Section 7-6

The Code of the City of Frederick, 1966 (as amended)

**BY** repealing and reenacting, with amendments,

Section 7-7

The Code of the City of Frederick, 1966 (as amended)

**SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK,** That Section 7-3 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed in its entirety and a new Section 7-3 is added to read as follows:

**Sec. 7-3. Mail-in voting.**

- (a) **Mailing.** For each election, the Board shall cause a mail-in ballot to be mailed to every voter qualified to vote in that election. Ballots must be mailed at least 21 days, but no more than 30 days, before the election to which they apply.
- (b) **Records.** The Board shall keep a full record of mail-in voting, including but not limited to the name and address of each voter, the date of issuance of ballots, and the date and time of receipt of the voted mail-in ballot. These records are available for public inspection.
- (c) **Delivery.** A mail-in ballot may be returned by mail in accordance with any instructions accompanying the ballot. A ballot returned by mail is timely received, and will be counted, if it is postmarked on or before the date of the election and received by the Board on or before 4:30 p.m. on the first Friday after election day. Instead of being mailed, a mail-in ballot may be delivered in person and dropped in a depository provided for that purpose at a voting center or other location as determined by the Board.
- (d) **Postage.** Postage for transmitting the mail-in ballot to the voter and for the return of the mail-in ballot will be paid by the City.
- (e) **Replacement ballot.** Subject to this subsection, if a mail-in ballot is destroyed, spoiled, lost, or not received, a registered voter may request and obtain a replacement ballot in person or by mail. Replacement ballots will be issued at the Frederick County Board of Elections office at any time the office is open before election day. Replacement ballots will not be mailed within 7 days before election day.

**SECTION II. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK,** That Section 7-3.1 of The Code of the City of Frederick, 1966 (as amended) is hereby added to read as follows:

**Sec. 7-3.1. Voter assistance for mail-in ballot voting.**

- (a) **Generally.** Any voter who requires assistance in casting a mail-in ballot by reason of disability, inability to write, or inability to read the ballot may be given assistance by an agent of the voter. An agent giving assistance to a voter pursuant to this subsection shall include a certification of assistance to be included with the mail-in ballot.
- (b) **Agents.** An agent of a voter:
  - (1) must be at least 16 years of age;
  - (2) must not be a candidate or an agent of any candidate in that election;
  - (3) shall be designated as the agent of the voter in writing signed by the voter under penalty of perjury; and

- (4) shall execute a certification under penalty of perjury that the ballot was marked and placed in a sealed envelope by the voter, or with permitted assistance, in the agent's presence.
- (c) **Candidates.** No mail-in ballot, completed or otherwise, shall be handled or delivered by a candidate or any individual volunteering or working for a candidate, except for their own ballot or that of their immediate family member or member of their household.
- (d) **Collection and delivery.** An individual that is permitted to receive or collect a registered voter's mail-in ballot must:
  - (1) accept only a ballot that is within a sealed envelope;
  - (2) deliver the ballot in accordance with all applicable laws and regulations; and
  - (3) not accept payment in any form for the collection and/or delivery of the ballot.

**SECTION III. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK,** That Section 7-3.2 of The Code of the City of Frederick, 1966 (as amended) is hereby added to read as follows:

**Sec. 7-3.2. Provisional voting.**

- (a) **Basis.** An individual who wishes to vote in person shall be issued a provisional ballot if:
  - (1) official records indicate that the Board has received a mail-in ballot from the individual or the individual already voted in that election;
  - (2) there is a question involving the individual's address or other factor relating to the individual's eligibility to vote; or
  - (3) the individual votes during a period covered by a court order or other order extending the time for closing the polls. A provisional ballot cast under this subsection shall be separated and held apart from other provisional ballots cast by those not affected by the order.
- (b) **Procedures.** Provisional ballots shall be processed in accordance with procedures established by the Board.

**SECTION IV. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK,** That Section 7-4 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted with amendments, as follows:

**Sec. 7-4. Conduct and operation of elections.**

- (a) **Records.** All office procedures, transactions and record maintenance relating to any election of the City shall be conducted under the supervision of the Board. All election data must be preserved for at least ~~five (5)~~ **5** years after the date of the election. All voted ballots used in any election must be preserved for at least ~~two (2)~~ **2** years after the date of the election. Unused ballots must be retained until the election results have been certified, after which they may be destroyed.

(b) **Notice of elections.**

(1) ~~[Twice]~~ **At least three times** before each City election, the Board shall give notice of elections by publishing notice in a newspaper of general circulation in the City.

~~[(2)]~~ Each notice must include the hours of the polls, listing of polling places, and the offices and questions to be voted upon at the election.

~~[(3)]~~ Except as otherwise provided in this paragraph, the first notice must be published at least eight (8) days before election day.]

**(2) The first notice must be published at least 7 days before mail-in ballots are mailed to qualified voters. This notice will provide any information deemed necessary by the Board with respect to mail-in ballots and the mail-in voting process. It will include a copy of a specimen ballot listing the candidates' names, offices, and party affiliation, as well as any questions to be voted on.**

**(3) The second notice must be published at least 8 [eight (8)] days before election day. [If the Board of Aldermen has provided for early voting as part of a certain election, the first notice must be published at least eight (8) days before the first day of early voting for that election. At the same time the first notice is published, a copy of the specimen ballot listing the candidates' names and offices, party affiliation, and questions must also be published.]**

(4) The ~~[second]~~ **third** notice must be published the day before election day.

**(5) In addition to the other requirements of this subsection, the Board will ensure that pertinent election information, including specimen ballots, is published on the City's website.**

(c) **Voting machines.** The use of voting equipment is hereby authorized for all City elections.

(d) **Polls open.** For all City elections, the polls shall remain open from 7:00 a.m. to 8:00 p.m. on election day.

(e) **Unofficial vote totals.** As soon as the polls have closed on election day, the judges of elections shall produce unofficial vote totals for each ~~[polling place]~~ **voting center** and post them at the ~~[polling place]~~ **voting center** in a prominent location, accessible to the public. The judges of elections shall complete all reports required by law and deliver to the Board's office all voted ballots, documents, and other election-related materials.

(f) **Voter assistance.**

(1) **Instructions.** At the request of a voter, an election judge shall instruct the voter, before the voter enters the voting booth, regarding the marking of a ballot.

(2) **Assistance to certain persons.** A voter who declares under oath to an election judge that the voter requires assistance in marking the ballot by reason of blindness, disability, or inability to read or write the English language may,

except as otherwise provided in paragraph (3) of this subsection, choose any individual to assist the voter.

- (3) **Persons who may not assist a voter.** A voter may not choose a candidate, the voter's employer or agent of that employer, or an officer or agent of the voter's union to assist the voter in marking the ballot.
- (4) **Manner of giving assistance.** The person chosen by the voter to assist the voter may mark the ballot or operate the voting machine as directed by the voter. A person assisting a voter may not suggest or seek to persuade or induce any voter to vote for or against any candidate or question. If the person chosen by the voter is an election judge, an election judge of a different political party shall witness the assistance given by the election judge to the voter.
- (5) **Person accompanying voter into booth or machine.** Except as otherwise provided in this subsection, a voter may not be accompanied into a voting booth by an individual ~~[over the age of twelve (12) years.]~~ **at least 12 years old.**

**SECTION V. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK,** That Section 7-5 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted, with amendments, as follows:

**Sec. 7-5. Judges of election.**

- (a) **Number.** On or before June 15, 2017, and on or before June 15 every ~~[four (4)]~~ **4** years after that, the Board shall appoint ~~[judges of elections]~~ **election judges** for the next election. The Board shall determine the number of election judges to appoint, subject to the requirements of this subsection. For each ~~[precinct on election day, or at an early center during early voting,]~~ **voting center**, there shall be an equal number of election judges from each of the two principal political parties, as defined by Maryland law. If the total number of election judges for a ~~[precinct or at an early]~~ voting center is four ~~[(4)]~~ or more, the Board may appoint one or more election judges ~~[for that precinct]~~ who are not registered with either of the principal political parties, as long as there are an equal number of election judges for that ~~[precinct]~~ **voting center** from each of the principal political parties.
- (b) ~~[General qualifications]~~ **Qualifications.**
  - (1) Except as otherwise provided in this section, **the Board may appoint as election judge any registered voter, at least 16 years old, residing in the City.** ~~[all election judges serving on election day must be residents and registered voters in the election precinct in which they are appointed to serve. Election judges serving during early voting must be City residents and registered voters.]~~ **If a qualified individual residing in the City cannot be found with reasonable effort, then the Board may appoint as election judge any registered voter residing in Frederick County.**
  - (2) All election judges must be ~~[persons]~~ **individuals** of high ~~[character,]~~ **character** **and** integrity and capable of performing their duties in a satisfactory manner. The judges of elections must be able to speak, read and write the English language

during the time of acting as a judge; must not hold nor be a candidate for any other public or political party office nor be a campaign manager or treasurer for a candidate or campaign committee. The Board may prescribe additional requirements as it may deem necessary for determining the qualifications of persons proposed for appointment as judges of elections.

~~[(c) **Residing outside precinct.** If a qualified individual residing in the election precinct cannot be found with reasonable effort, then the Board may appoint as election judge any registered voter residing in the City. If a qualified individual residing in the City cannot be found with reasonable effort, then the Board may appoint as election judge any registered voter residing in Frederick County.~~

~~(d) **Minors.** A minor at least seventeen (17) years old who is a resident of the City may be appointed to be an election judge. A minor who is too young to be a registered voter shall demonstrate, to the satisfaction of the Board, that the minor meets all of the other qualifications for registration in the City.~~

~~(e) **Vacancies.** Vacancies for any reason among the judges of elections shall be filled by the Board for the remainder of the unexpired term.]~~

~~[(f)](c) **Duties.** The election judges shall perform all necessary duties in regard to the conduct of the election at the [polling places and early] voting centers, including but not limited to providing voting assistance to a voter if requested by the voter to do so. All election judges are required, as part of their appointment, to attend a training session. The compensation of all judges of elections shall be determined by the Board of Aldermen.~~

~~[(g)](d) **Oath of office.** All judges of election appointed by the Board shall be promptly notified of their appointment, with direction to appear before the Board, at a time designated in such notice, for the purpose of qualifying. Each judge shall take and subscribe to the following oath of office:~~

*I, \_\_\_\_\_ residing at \_\_\_\_\_ in the State of Maryland, do swear that I will support the Constitution of the United States and that I will be faithful and bear true allegiance to the State of Maryland and support the Constitution and Laws thereof and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, discharge the duties of election judge in The City of Frederick, according to the Constitution and Laws of this State.*

**SECTION VI. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that Section 7-6 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted, with amendments, as follows:

**Sec. 7-6. Recount of ballots.**

**(a) Scope and definition.**

**(1)** This section applies to the recount by petition of any primary, general, or special City election.

**(2)** In this section, the term "recount" means the entire process of resolving a challenge to the vote count reported for an election.

**(b) Petition.**

(1) A candidate for Mayor or Alderman who has been defeated based on the results of a primary, general, or special election may petition the Board for a recount of the votes cast for the office [sought.] **sought, if the margin of difference between the apparent winning candidate and the losing candidate with the highest number of votes is 5% or less of the total votes cast.**

~~[(2) The petition must specify that the recount be conducted in all precincts or only in certain specified precincts designated in the petition. For purposes of this section, absentee ballots and votes cast during early voting are each considered a separate precinct.]~~

~~[(3)](2)~~ A petition must be filed with the Board, in writing, within [three (3)] **3** business days after the Board certifies the results of the canvass of ballots.

~~[(4)](3)~~ In a petition demanding the recount of votes that were cast on ballots and counted using an optical scan system, the petitioner shall specify whether the recount shall be conducted by:

- (A) manually retabulating the election totals reports printed during the canvass;
- (B) rescanning all ballots using:
  - (i) the same vote tabulating equipment that was used in the election; or
  - (ii) alternative vote tabulating equipment, if alternative equipment is available and its use is feasible; or
- (C) manually retabulating all ballots.

**(c) Counterpetition.**

(1) An opposing candidate of the petition under subsection (b) of this section may file a counterpetition if:

- (A) the petition filed under subsection (b) did not specify all of the precincts in the City; and
- (B) on completion of the recount, the outcome of the election is changed.

(2) A counterpetition is a request for a recount of the votes for the office in the precincts not specified by the petitioner under subsection (b) of this section.

(3) A counterpetition must be filed within two (2) business days after the determination under paragraph (1)(B) of this subsection

**(d) Bond.**

- (1) A petition or counterpetition filed under subsection (b) or subsection (c) of this section must be filed with a bond.
- (2) The Board shall determine and set the bond in an amount sufficient to pay the reasonable costs of the recount.

**(e) Notice.**

- (1) By the end of the next business day following the receipt of a petition or counterpetition, the Board shall deliver a notice of the recount, specifying the date, time and place the recount will occur, and a copy of the petition or counterpetition, to all candidates to the office being contested.
- (2) Notices issued under this section will be sent via first class mail to the candidate's address as given in the certificate of candidacy.

**(f) General conduct of recount.**

- (1) The Board shall conduct the recount in accordance with this section.
- (2) The recount must begin within ~~five (5)~~ **5** business days after the Board receives the petition or counterpetition. The recount must continue daily, at least ~~eight (8)~~ **8** hours each day, until completion, except that the Board may suspend the recount on Sundays and City holidays.
- ~~[(3) If the petition for recount is filed before the official canvass is completed, the Board shall finish the canvass and then conduct the recount in accordance with this section.]~~
- ~~[(4)]~~**(3)** Every recount must be conducted publicly, open to candidates and their representatives, other parties to the recount, the media, and the general public.

**(g) Verifying ballots.**

- (1) The Board shall first ascertain that the ballot used in the contest to be recounted was the correct ballot.
- (2) For paper ballots on which the ballot information is printed, the determination shall be made as the ballots are manually counted, or by inspecting the ballots before machine tabulation.
- (3) The procedure for recounting absentee ballots will be the same as for recounting other ballots. Absentee ballots will be recounted in a way that assures voter confidentiality.

**(h) Recount procedures.** The Board shall recount the ballots on vote tabulating equipment or manually, as specified by the petitioner in accordance with subsection (b) of this section. In conducting the recount, the Board shall use procedures substantially similar to those



regulations adopted by the State Board of Elections for the applicable recount method.

**(i) Costs.**

- (1) In this section, "petitioner" includes a counterpetitioner.
- (2) Before beginning the recount, the Board shall estimate and inform the petitioner of the anticipated number of hours needed to complete the recount and the cost per hour.
- (3) Except as otherwise provided in paragraphs (4) and (5) of this subsection, the petitioner shall pay the cost of the recount and recanvass and the petitioner's bond will be liable for the costs.
- (4) If more than one individual files a petition, the Board will apportion the costs between or among the petitioners as the Board deems reasonable.
- (5) The City will bear the costs if:
  - (A) the outcome of the election is changed;
  - (B) the petitioner has gained a number of votes equal to at least ~~two (2) percent~~ 2% of the total votes ~~[cast in the precinct or precincts]~~ being recounted; or
  - (C) the margin of difference in the number of votes received by an apparent winner and the losing candidate with the highest number of votes for an office is 0.1% or less of the total votes cast for those candidates.
- (6) After the recount is completed, the Board shall:
  - (A) determine the actual cost of the recount; and
  - (B) if the petitioner is liable for the cost under this section, collect the cost from the petitioner's bond. If the amount of the bond is insufficient, the petitioner shall pay the balance of the cost.

**(j) Correction of returns.** After the recount is complete, the Board shall correct, as appropriate:

- (1) the official returns; and
- (2) any certificates that were issued on the basis of those returns.

**(k) Challenges.**

- (1) A challenge to any part of the recount may be made by any person with standing to file a petition for the recount being conducted under subsection (b)(1) of this section, even if that person was not the one who filed the actual petition.

- (2) A challenge may be based on:
  - (A) the allowance or disallowance of a ballot;
  - (B) the allowance or disallowance of a vote;
  - (C) the tallying of votes;
  - (D) the aggregation of the vote count; or
  - (E) any other part of the recount that could affect the accuracy of the result.
- (3) If an individual seeks to challenge some action then being taken, the individual may ask the Board to temporarily stop the action so that the person can interpose a challenge.
- (4) A person making a challenge shall state the reason for the challenge.
- (5) If the challenge is to a ballot, the official whose action has been challenged shall:
  - (A) count the vote as the official believes proper; and
  - (B) set it aside with an attached notation on:
    - (i) how it was counted;
    - (ii) the nature of the challenge;
    - (iii) the name of the official; and
    - (iv) the name of the challenger.
- (6) The Board shall decide the challenge promptly and expeditiously so as not to delay the recount.
- (7) In making a decision on whether to allow or disallow a vote, the Board shall attempt to determine the intent of the voter.
- (8) A vote may not be disallowed except by unanimous vote of all members of the Board. The decision of the Board is final.

**SECTION VII. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that Section 7-7 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted, with amendments, as follows:

**Sec. 7-7. [~~Selection of polling places.~~] Voting centers.**

- (a) **Selection.** The Board shall provide for each election a suitable place or places ~~[in each precinct for voting. The polling places in each precinct should be as near the center of the voting population of the precinct and as convenient to the greater number of voters~~

as is practicable.] **within the City to serve as voting centers.** [An election may not be held in any] **A** building that is used as, or connected by doors or hallways to, a place where alcoholic beverages are [sold.] **sold may not be used as a voting center.**


~~[(b) The Board may provide a centralized polling place to be used by the voters of one or more precincts in the City, subject to the approval of the Board of Aldermen.]~~

~~[(c)](b) **Accessibility.** [If the Board is unable to find a suitable place for voting in any election precinct, it may provide a polling place for said precinct in any other adjacent precinct.] Every [polling place] **voting center** [to the extent feasible,] must be structurally barrier free in order to permit reasonable access to disabled voters.~~

**SECTION VIII. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK,** That this ordinance shall take effect on June 4, 2021 and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

**PASSED:**


**DATE:**

  
\_\_\_\_\_  
Michael C. O'Connor, President,  
Board of Aldermen

April 15, 2021

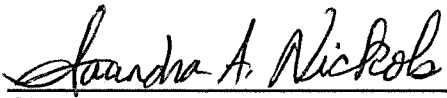
**APPROVED:**

**DATE:**

  
\_\_\_\_\_  
Michael C. O'Connor, Mayor

April 15, 2021

**Approved for Legal Sufficiency:**

  
\_\_\_\_\_  
Sandra A. Nickols  
City Attorney