

ORDINANCE NO. 535

AN ORDINANCE AMENDING CHAPTER 18, "ELECTIONS", OF THE
TOWN CODE, SECTION 18-3, "POLL WATCHERS" TO PROVIDE
PROCEDURES FOR A CHALLENGE BY A POLL WATCHER DURING
TOWN ELECTIONS.

WHEREAS, pursuant to Md. Code Ann., Local Gov't § 5-202 and § C-19(A) of the Charter of the Town of St. Michaels, The Commissioners of St. Michaels (the "Town Commissioners") are authorized and empowered to pass ordinances not contrary to the Constitution or laws of the State of Maryland or to the provisions of the Charter for the preservation of peace and order, for securing persons and property from violence, danger, or destruction, and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of and visitors to the Town of St. Michaels (the "Town"); and

WHEREAS, pursuant to the aforesated authority and the additional authority contained in Md. Code Ann., Local Gov't Art., § 5-206, the Town has enacted Chapter 18, "Elections", of the Town Code; and

WHEREAS, the Town Commissioners by Ordinance No.532 have provided for the designation and attendance of registered poll watchers at Town polling places during Town elections; and

WHEREAS, the Town Commissioners now deem it advisable to add procedures relating to a challenge by a designated poll watcher.

SECTION 1. NOW THEREFORE BE IT ORDAINED AND ENACTED BY THE COMMISSIONERS OF ST. MICHAELS that Chapter 18, "Elections", Section 18-3, "Poll Watchers", of the Code of the Town of St. Michaels shall be and is hereby amended to add subsection G, "Procedures", as follows:

§ 18-3. Poll watchers.

* * *

G. PROCEDURES.

1. THE RIGHTS AND FUNCTIONS OF A POLL WATCHER SHALL BE LIMITED TO CHALLENGING THE IDENTITY, RESIDENCE OR OTHER VOTER OR REGISTRATION QUALIFICATION OF A VOTER.

2. WHEN THE RIGHT OF ANY PERSON TO VOTE IS CHALLENGED, THE CHALLENGE SHALL BE MADE AND ITS VALIDITY DETERMINED BEFORE THE CHALLENGED VOTER ENTERS THE VOTING BOOTH TO CAST A BALLOT. THE PERSON CHALLENGING SHALL BE PUT UNDER OATH BY THE TOWN CLERK AND SHALL STATE THE REASON FOR THE CHALLENGE. THE CHALLENGED VOTER MAY CHOOSE TO

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ANSWER THE CHALLENGE, IN WHICH CASE HE OR SHE SHALL ALSO BE PUT UNDER OATH BY THE TOWN CLERK. IF THE CHALLENGED VOTER CHOOSES TO ANSWER THE CHALLENGE, THE TOWN CLERK SHALL QUESTION THE VOTER WITH RESPECT TO THE CAUSE OF THE CHALLENGE. IF THE TOWN CLERK IS OF THE OPINION THAT THE CHALLENGED VOTER IS THE PERSON SO PROPERLY REGISTERED AND OTHERWISE ENTITLED TO CAST A BALLOT, THE CHALLENGED VOTER'S VOTE SHALL BE RECEIVED ACCORDINGLY. IF THE TOWN CLERK IS OF THE OPINION THAT THE CHALLENGED VOTER IS NOT THE PERSON SO REGISTERED OR IS NOT OTHERWISE ENTITLED TO CAST A BALLOT, THE VOTER SHALL BE ISSUED A PROVISIONAL BALLOT. ALL PROVISIONAL BALLOTS ISSUED DURING THE ELECTION SHALL BE CONSECUTIVELY NUMBERED, WHICH NUMBER SHALL BE PROVIDED TO THE CHALLENGED VOTER. THE PROVISIONAL BALLOT SHALL BE COMPLETED BY THE CHALLENGED VOTER AND MARKED WITH A PASSWORD OF THE VOTER'S CHOICE AND THEN SEALED IN AN ENVELOPE MARKED WITH ITS CONSECUTIVE NUMBER. IF THE CHALLENGED VOTER APPEALS TO THE TOWN COMMISSIONERS UNDER PARAGRAPH 3. OF THIS SUBSECTION AND THE DECISION OF THE TOWN CLERK IS REVERSED, THE PROVISIONAL BALLOT SHALL BE OPENED AND COUNTED IN THE PRESENCE OF THE CHALLENGED VOTER, AT HIS OR HER OPTION.

3. THE DECISION OF THE TOWN CLERK SHALL BE SUBJECT TO APPEAL BY THE VOTER TO THE TOWN COMMISSIONERS AND SUCH APPEAL SHALL SUBMITTED IN WRITING AND RECEIVED BY THE TOWN COMMISSIONERS WITHIN TEN (10) DAYS OF THE DATE OF THE ELECTION. THE TOWN COMMISSIONERS SHALL CONVENE TO ACT UPON THE APPEAL WITHIN FIVE (5) DAYS OF RECEIPT OF THE CHALLENGE. NO COMMISSIONER WHO IS ON THE BALLOT FOR THE ELECTION IN WHICH THE CHALLENGED VOTE OCCURRED MAY PARTICIPATE IN ANY WAY WITH RESPECT TO AN APPEAL.

4. THE TOWN COMMISSIONERS ENTITLED TO PARTICIPATE IN THE APPEAL SHALL CONDUCT A HEARING AT WHICH THE CHALLENGED VOTER SHALL BE ENTITLED TO APPEAR AND GIVE TESTIMONY UNDER OATH AND WHICH SHALL NOT BE ATTENDED BY ANY CANDIDATE ON THE BALLOT OF THE SUBJECT ELECTION. THE TOWN COMMISSIONERS SHALL DECIDE THE APPEAL IMMEDIATELY AFTER THE HEARING. IN THE EVENT THAT THE COMMISSIONERS ARE UNABLE TO COME TO A DECISION BY MAJORITY VOTE AFTER TWO ATTEMPTS, THE CHALLENGE SHALL BE DEEMED DENIED AND THE CHALLENGED VOTER'S VOTE SHALL BE RECEIVED AND COUNTED.

SECTION 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

AND BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately

UNDERLINED SMALL CAPS : Indicate matter added to existing law.
Asterisks * * * : Indicate matter remaining in existing law but omitted herein

upon passage, having been read at one (1) meeting of The Commissioners of St. Michaels and having been passed by a yea and nay vote of The Commissioners of St. Michaels.

HAVING BEEN READ for the second time and passed by a yea and nay vote of The Commissioners of St. Michaels at a Public Meeting of The Commissioners of St. Michaels held on this 27th day of July, 2022, in the meeting room of the Town Office, St. Michaels, Maryland.

Breimhurst yea

duPont yea

Harrod yea

Mercier yea

Whittington yea

I HEREBY CERTIFY that this Ordinance was passed by a yea and nay vote of The Commissioners of St. Michaels on the 27th day of July 2022.

ATTEST:

THE COMMISSIONERS OF ST. MICHAELS

Robert Straebel
Robert Straebel, Town Administrator

By:

David Breimhurst (SEAL)
David Breimhurst, President

I HEREBY CERTIFY that an exact copy of the above Ordinance was posted from the 14th day of July, 2022, at 8:30 o'clock a.m. to the 16th day of August, 2022, at 4:30 o'clock p.m., on the bulletin board at the Town Office in St. Michaels, Maryland, and that a summary of the above Ordinance, the date of its passage, its effective date, and the entire text of the Ordinance appears on the bulletin board of the Town Office, St. Michaels, Maryland, for at least twenty (20) days following the passage, has been published at least once each week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper having general circulation in the Town of St. Michaels.

Date

Date: August 17, 2022

Robert Straebel (SEAL)
Robert Straebel, Town Administrator

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