

ORDINANCE NO. 2889

AN ORDINANCE OF THE CITY OF SALISBURY AMENDING CHAPTER 1.08 OF THE SALISBURY CITY CODE, ENTITLED “ELECTION BOARD,” TO ADOPT RECOMMENDATIONS MADE BY THE CITY OF SALISBURY ELECTION BOARD REGARDING THE APPLICATION FOR MAIL-IN BALLOTS AND THE CANVASSING OF BALLOTS.

WHEREAS, the ongoing application, administration and enforcement of the City of Salisbury Municipal Code (the “**Salisbury City Code**”) demonstrates a need for its periodic review, evaluation and amendment, in order to comply with present community standards and values, and promote the public safety, health and welfare of the citizens of the City of Salisbury (the “**City**”); and

WHEREAS, the Mayor and Council of the City of Salisbury (the “**Mayor and Council**”) are authorized by MD Code, Local Government, § 5-202, as amended, to adopt such ordinances, not contrary to the Constitution of Maryland, public general law or public local law, as the Mayor and Council deem necessary to assure the good government of the municipality, to preserve peace and order, to secure persons and property from damage and destruction, and to protect the health, comfort and convenience of the citizens of the City; and

WHEREAS, the Mayor and Council may amend the Salisbury City Code pursuant to the authority granted in § SC 2-15 of the Salisbury City Charter; and

WHEREAS, the Mayor and Council find that amendments to Chapter 1.08 of the Salisbury City Code are desirable to update and clarify the Code with respect to the application for mail-in ballots and canvassing of ballots; and

WHEREAS, on August 8, 2024, the City of Salisbury Election Board convened in public session to review potential amendments to Chapter 1.08 of the Salisbury City Code to offer advice and recommendations the with respect to such amendments to the Mayor and Council; and

WHEREAS, on August 19, 2024, the Mayor and Council convened in public session to review potential amendments to Chapter 1.08 of the Salisbury City Code resulting from the advice and recommendations of the City of Salisbury Election Board; and

WHEREAS, the Mayor and Council have determined that the amendments to Chapter 1.08 of the Salisbury City Code set forth below shall be adopted as set forth herein.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that Chapter 1.08 of the Salisbury City Code is hereby amended by adding the bolded and underlined language and deleting the strikethrough language as follows:

Section 1. Chapter 1.08.020 of the Salisbury City Code, entitled “Duties of city board” is amended as follows:

1.08.020 - Duties of the city board.

The city board shall generally supervise the conduct of the system of appointment and registration, ~~nomination by petition~~, general and special elections, and ~~other~~ petitions in accordance with the provisions of the City Charter and Code ordinances of the council, **and shall enforce the provisions of the City Charter and Code governing elections, qualifications for office, and campaign advertising and**

finance. ~~; specifically including the following duties~~ **The duties of the city board shall include, but are not limited to:**

- A. ~~Observe~~ **Observing** polls;
- B. ~~Observe~~ **Observing** opening of mail-in ballots;
- C. **Hearing** contests concerning voting and the validity of any ballot; ~~and~~
- D. ~~Ensure~~ **Ensuring** compliance with campaign advertising and finance as described in Chapter 1.12 of the Code- **and**
- E. **Hearing complaints of alleged violations of the City Charter and Code governing elections, qualifications for office, and campaign advertising and finance.**

Section 2. Chapter 1.08.220 of the Salisbury City Code, entitled “Application for mail-in ballots.” is amended as follows:

1.08.220 - Application for mail-in ballots.

Except as provided in Section 1.08.190, a qualified voter desiring to vote at any election as a mail-in voter shall make application in writing for to the county board for a mail-in ballot, which application must be received not later than the ~~Tuesday preceding the election~~ **deadline set by current Maryland State law and regulation for mail-in ballots to be received by mail, fax, or Internet.** The application shall contain an affidavit, which need not be under oath but which shall set forth such information, under penalty of perjury, as may be required by the county board.

Section 3. Chapter 1.08.280 of the Salisbury City Code, entitled “Canvassing of ballots.” is amended as follows:

1.08.280 Canvassing of ballots.

- A. Opening or Unfolding Ballots. The county board shall not open or unfold any mail-in ballot at time prior to the closing of the polls.
- B. Duties of County Board.
 - 1. Subject to the provisions of subsection (B)(2) of this section, at any time after ~~four p.m.~~ **ten a.m.** on the Wednesday following election day and not later than the canvass of the votes cast at the regular voting places in the city at any election, the county board shall meet at the usual offices of the county board and shall proceed to count, certify and canvass the mail-in ballots contained in the ballot envelopes. Each board of canvassers shall keep the ballots safe from tampering until the canvass is completed. The county board shall take all appropriate and feasible steps to protect the privacy of all mail-in ballots.
 - 2. The canvass may not be completed until all mail-in ballots that have been received timely have been counted.
- C. Timely Receipt and Ballot.
 - 1. Except as provided in subsection D of this section, a ballot shall be considered as received timely, provided:
 - a. It has been received by the county board prior to closing of the polls on election day; or

- b. It was mailed on or before election day; or
 - c. The United States Postal Service, an army post office, a fleet post office, or the postal service of any other county, has provided verification of that fact by affixing a mark so indicating on the covering envelope; and
 - d. The county board receives the ballot from the United States Postal Service not later than ~~four p.m.~~ **ten a.m.** on the second Friday following election day.
2. Except as provided in subsection D of this section, any ballot received after the deadline established in this subsection may not be counted.

D. Ballots Received from Locations Outside United States.

1. In a primary, general or special election, a ballot received from a location outside the United States shall be considered as received timely provided:
- a. It has been received by the county board from the United States Postal Service not later than ~~four p.m.~~ **ten a.m.** on the second Friday following the election day; and
 - b. It was mailed before election day; and

The United States Postal Service, an army post office, a fleet post office, or the postal service of any other country, has provided verification to that fact by affixing a mark so indicating on the covering envelope.

2. Any ballot received by mail after the deadline established in this subsection may not be counted.
3. The commencement of the counting and canvassing process may not be delayed to await receipt of ballots under this subsection.
4. For the purposes of this subsection, "United States" includes several states, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands but does not include American Samoa, Guam, the Trust Territory of the Pacific Islands, any other territory or possession of the United States, an army post office address or a fleet post office address.

E. Voter's Affidavit. For the purposes of subsections C and D of this section, a voter's affidavit that the ballot was completed and mailed before election day shall suffice if the postal service of the country from which the ballot was mailed does not provide a postmark on that ballot.

F. Procedure Generally.

- 1. A ballot may not be rejected by the city board except by the unanimous vote of the entire city board.
- 2. If the intent of the voter is not clearly demonstrated, only the vote for that office or question shall be rejected.
- 3. If the board of canvassers determines a ballot is intentionally marked with an identifying mark the entire ballot shall not be counted.
- 4. Any ballot received by mail after the deadlines established in subsections C and D of this section may not be counted.

5. Mail-in ballots may not be separately disclosed or reported by precinct.
 6. All voters' applications, affidavits, certifications, ballot envelopes and ballots shall be kept separate and apart from ballots cast at the regular voting places and retained after the date of election at which they were cast for the time required by federal law, unless prior to that time, the county board is ordered by a court of competent jurisdiction, to keep the same for any longer period.
 7. The county board may appoint such numbers of temporary judges as it may deem necessary to adequately and promptly carry out the provisions of this section.
- G. **Ballot Voted for Person Who Has Ceased to Be a Candidate.** Any mail-in ballot voted for a person who has ceased to be a candidate shall not be counted for such candidate but such vote shall not invalidate the remainder of such ballot.
- H. **Ballot Delivered to Wrong Board.** If a mail-in ballot envelope is delivered to the wrong board, such board shall immediately send said ballot envelope unopened, unmarked and unchanged in any way to the proper board or to the city clerk.
- I. **Voter Dying Before Election Day.** Whenever the county board determines from proof or investigation that any person who has marked and transmitted or deposited in person with the board a mail-in ballot, under the provisions of this chapter, has died before election day, the county board shall not count the ballot of the deceased voter.
- J. **Place Ballot in Ballot Box and Entry in Registry—More than One Ballot in Envelope—Marking Ballots.**
1. If the county board determines that the provisions for filling out and signing the oath on the outside of the ballot envelope have been substantially complied with and that the person signing the voter's oath is entitled to vote under this chapter in any city election and has not already voted therein on election day, it shall open the ballot envelope and remove the ballot therefrom and the ballot shall be placed by the county board in a secure place to which the public has no access.
 2. If there be more than one ballot in the ballot envelope, all shall be rejected except when two elections are held on the same day and a voter is voting in both elections and the voter returns both mail-in ballots in the ballot envelope provided.
 3. Mail-in ballots may be marked by the pencil taped on the mail-in ballot.
- K. **More than One Ballot Received from Same Person.** If the county board receives from the same person prior to the deadline for receipt of mail-in ballots more than one mail-in ballot, it shall count, certify and canvass only the mail-in ballot contained in the ballot envelope on which the voter's oath was first executed and if the oath on two or more of the ballot envelopes containing mail-in ballots are dated the same, or if both are undated, none of the ballots received from such person shall be counted.

BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 4. It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Ordinance shall be deemed independent of all other provisions herein.

Section 5. It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication

shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Ordinance shall remain and shall be deemed valid and enforceable.


Section 6. The recitals set forth hereinabove are incorporated into this section of the Ordinance as if such recitals were specifically set forth at length in this Section 6.

Section 7. This Ordinance shall take effect from and after the date of its final passage.


THIS ORDINANCE was introduced and read at a Meeting of the Mayor and Council of the City of Salisbury held on the 9 day of September, 2024 and thereafter, a statement of the substance of the Ordinance having been published as required by law, in the meantime, was finally passed by the Council of the City of Salisbury on the 23 day of September 2024.

ATTEST:


Julie A. English, City Clerk


D'Shawn M. Doughty, City Council President

Approved by me, this 24 day of Sept, 2024.


Randolph J. Taylor, Mayor