

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

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|---------------------------------------|---|------------------------------------|
| PETITION OF | * | |
| QUANTUM MARYLAND, LLC, et al., | | |
| Petitioners | * | |
| FOR JUDICIAL REVIEW OF THE | | Case No. C-10-CV-26-309 |
| DECISION OF THE | * | (Consolidated with C-10-CV-26-321; |
| FREDERICK COUNTY BOARD OF | | C-10-CV-26-325; C-10-CV-26-326; |
| ELECTIONS | * | & C-10-CV-26-327) |
| IN THE CASE OF | * | |
| THE PETITION OF THE | | |
| FREDERICK COUNTY DATA CENTER | * | |
| REFERENDUM COMMITTEE | | |
| FOR REFERENDUM OF | * | |
| FREDERICK COUNTY COUNCIL | | |
| ORDINANCE 26-01-001 | * | |

OPINION and ORDER

In recent years the location, development, and operation of computer data centers has been a controversial issue in many communities in Maryland and across the country. Frederick County, MD has not been spared. The debate concerning data centers has been before community groups, the County Executive, the County Council, and the County's Planning Commission. Understandable and reasonable arguments exist on both sides of the debate regarding whether computer data centers will operate in Frederick County. Selecting which side prevails is not the job of the court. Its obligation is to uphold the law and to ensure the resolution of the issue is done in compliance with the law.

In this matter, four Frederick County voters and seven companies ("the Petitioners") brought five separate petitions to the Court challenging a decision made by the Election Director of the Frederick County Board of Elections. The Court consolidated the cases since each petition deals with the Director's decision to certify a petition for referendum on Ordinance 26-01-001 of the County Council of Frederick County, MD.

The County Council enacted Ordinance 26-01-001 on January 20, 2026. *Ex. P12, trial June 16, 2026.* The Ordinance identifies specific areas in Frederick County where "Critical Digital Infrastructure Facilities" (i.e., computer data centers) would be permitted

to be built and operated. The next day, January 21, 2026, the Fredrick County Data Center Referendum Committee (“the Referendum Committee”) submitted the form of a petition for referendum to the Election Director for an advance determination of its sufficiency pursuant to MD Code, Election Law, §6-202. *Ex. D01, trial June 16, 2026.* On January 23, 2026, the Director issued a memorandum to the Referendum Committee stating she found the petition sufficient as to “form only” and such advance determination as to form “does not constitute a binding determination that ‘the use of [the] petition for the subject matter of the petition is ... authorized by law ...” *Ex. D02, trial June 16, 2026.* Her memorandum further stated that the County Attorney advised the Frederick County Council and County Executive that the ordinance was not a law subject to referendum under the Frederick County Charter. *Id.*

On March 19, 2026, the Referendum Committee submitted its Referendum Petition to the Election Director. *Ex. P14, p.4, trial June 16, 2026.* On April 3, 2026, the Director notified the Referendum Committee that its petition included enough valid signatures to exceed the threshold requirement required by Frederick County Charter §308(a).¹ *Ex. D14, trial June 16, 2026.* The Director further noted she found no deficiencies in the Petition under sub-sections 1, 2, 3, 4, and 6 of MD Code, Election Law §6-206(c). However, the Director stated she was “unable to make a determination that the petition is not authorized by law under EL §6-206(c)(5)(1).” *Id.*

In a letter, also dated April 3, 2026, the Election Director informed the County Attorney for Frederick County she had certified the Referendum Petition and: “... in accordance with (EL art. §2-208(c)(1)), I am hereby notifying you that the petition process has been completed and that the question has qualified to be placed on the November 2026 General election ballot”. *Ex. P14, p.102, trial June 16, 2026.*

Petitioners claim the Director erred by certifying the Referendum Petition. In their Petitions, they bring three (3) counts: i) judicial review; ii) declaratory relief; and iii) mandamus. They raise three (3) arguments: i) Ordinance 26-01-001 is not a “law” subject

¹ To be referable, a referendum petition must be signed by 7% of the registered voters of Frederick County, Maryland. Frederick County Charter §308(a). The Committee submitted 24,053 signatures. The Director verified and validated 21,029. The Director determined the Committee exceeded the required threshold of 15,611.

to referendum under §308 of the Frederick County Charter; ii) the Director improperly certified the Referendum Petition without making a required deficiency determination under Election Law §6-206(c)(5)(i); and iii) the Director improperly certified the Referendum Petition because it did not contain the full and accurate text of Ordinance 26-01-001 as required under §308(b) of the County Charter. Petitioners ask this Court to reverse the Election Director’s decision; declare the Ordinance is not referable; or, in the alternative, issue a writ of mandamus directing the Director to comply with a mandatory obligation appearing in Election Law, §6-206(c)(5)(i). The parties submitted memoranda, and the Court held a hearing to address the Petitioners’ request for judicial review pursuant to Title 7 of the Maryland Rules. The Court also held a trial regarding the Petitioners’ request for declaratory and mandamus relief, following the Rules appearing in Title 2, though with modification regarding discovery necessitated by the Election Law’s directive that “the case shall be heard and decided without a jury and as expeditiously as the circumstances require”. MD Code, Election Law, § 6-209(a)(3)(i).

Ordinance 26-01-001 is another step taken by Frederick County government officials to resolve the data center debate. Other steps include:

- 1) The submission of a report on March 1, 2024 prepared by the Frederick County Data Centers Workgroup; a group formed by the County Executive of Frederick County. *Ex. D07, trial June 16, 2026.*
- 2) The passage of Bill No. 25-09 on September 2, 2025 by the Frederick County Council which the preamble explains is an act to establish a zone, known as the “Critical Digital Infrastructure Overlay Zone”, and “for the purpose of directing Critical Digital Infrastructure Facilities and Critical Digital Infrastructure Electric Substations to industrial lands in proximity to data conveyance infrastructure and other industrial uses, while minimizing impacts to non-compatible uses and allowing for development of industrial lands not included in the Critical Digital Infrastructure Overlay Zone for other industrial uses.” *Ex. P24, trial June 16, 2026.* The County Executive approved the Bill on September 12, 2025 and it became effective November 1, 2025. The Bill required that Critical Digital Infrastructure Facilities and Electric Substations be

confined to the new CDI Overlay Zone, which will be within General Industrial and Limited Industrial zones and be limited to an area of Frederick County comprising less than 1% of its total land mass.

- 3) The certification on November 4, 2025 by the Frederick County Planning Commission to the County Council of its recommendation to approve the Comprehensive Plan Amendment to implement the new CDI Overlay Zone. *Ex. P07, p.36, trial June 16, 2026.*
- 4) The approval by the County Council on December 23, 2025 of 7 amendments to the Planning Commission's recommendations. *Id.* The Introduction to the Comprehensive Plan Amendment states: "Properties included in a zoning overlay area continue to have a base zoning designation, such as Agricultural or Limited Industrial, and property owners can continue to use their property in accordance with their zoning. Property owners in the Critical Digital Infrastructure Overlay Zone (CDI-OZ) are not obligated to pursue data center development. It is an option afforded by inclusion in the CDI-OZ when properties also have a Limited Industrial or General Industrial zoning designation. For properties that do not have Limited Industrial or General industrial zoning, a zoning map amendment must be requested. Such requests are reviewed by the Planning Commission, which makes a recommendation, and then advance to the County Council for a decision. The County Council has no obligation to grant such requests." *Ex. P07, p.7, trial June 16, 2026.* The Minutes of the Council's December 23, 2025 meeting show the Council approved the zoning map amendments to incorporate the CDI Overlay Zone and directed staff to prepare a zoning ordinance. <https://www.frederickcountymd.gov/Archive.aspx?AMID=112#docaccess8cb65518b23foeodo268391383b2779e92ad2479b51d6887555f36842b434195>.
- 5) The passage of Resolution No. 26-01 on January 20, 2026 by the Frederick County Council wherein the recitals state the Council may modify the Plan Amendment certified by the Planning Commission pursuant to Md. Code, Land Use, §3-204 and that after conducting the

required public hearings, the Council approved 7 amendments to the Planning Commission's recommended Plan on December 23, 2025. *Ex. P07, p.36, trial June 16, 2026*. By its Resolution, the County Council formally adopted the Comprehensive Plan Amendment with the 7 amendments it made to the Planning Commission's recommendations.

All of this led up to the County Council approving Ordinance 26-01-001 on January 20, 2026. It is against this backdrop the Court considers Petitioners' requests for relief.

A referendum is the reservation by the people of the right to have submitted for their approval or rejection, under specific conditions, any law or part of a law that is passed. *Anne Arundel County v. McDonough*, 277 Md. 271, 283-84, 354 A. 2d 788, 796 (1976). The Maryland Supreme Court in *McDonough* recognized that ordinarily referendums are limited to legislative matters and that rezoning, pursuant to a comprehensive plan, has been held to be a legislative function. *Id.* The Supreme Court stated: "Thus, it would appear-other considerations aside-that legislation, adopting a comprehensive zoning, generally should come within the scope of the right of referendum, to the extent that it might be legally invoked." *Id.* This Court believes that when the Supreme Court included the phrases "other considerations aside" and "to the extent that it might be legally invoked", it was instructing this Court to confirm there are no other legal provisions restricting the right to referendum of a zoning ordinance. Such a review requires this Court to exam Frederick County's Charter. *Cf. Town of Bel Air v. Bodt*, 487 Md. 354, 367, 318 A.3d 570, 578-79 (2024) (wherein the Supreme Court reviewed a municipal charter when determining whether a municipality correctly denied a referendum on a zoning ordinance).

Frederick County, MD is a charter county formed under the provisions of Art. XI-A, §1 of the Maryland Constitution. The County's Charter is, in effect, the local constitution for Frederick County, MD. Paraphrasing the Maryland Supreme Court in *Cheeks v. Cedlair Corp*, 287 Md. 595, 415 A.2d 255 (1980), the Charter is Frederick County's constitution. *Id.* at 606-07. It is:

[the] ... permanent document intended to provide a broad organizational framework establishing the form and structure of government in pursuance of which (Frederick County) is to be governed and local laws enacted. It is

the organic, the fundamental law, establishing basic principles governing relationships between the government and the people, and among the various governmental branches and bodies.

Id.

Section 308 of Article 3 of the Frederick Charter addresses referendums. Subsection 308(a) provides:

Except for the following, a law, or part of a law, enacted pursuant to this Charter may be referred to the voters for approval upon the filing of a petition signed by seven percent of the registered voters of the County:

- (1) A law imposing a tax;
- (2) A law appropriating funds for current expenses to maintain the Government;
- (3) A law prescribing Council Districts; and
- (4) A law adopting a Compensation Review Commission.

Frederick County Charter, Article 3, §308(a).

As stated by the Maryland Supreme Court: “The Court’s primary objective is to ascertain the purpose and intent of the charter’s framers.” *Prince George’s Cnty. v. Thurston*, 479 Md. 575, 586, 278 A.3d 1251, 1258 (2022). To determine the framer’s intent, “[t]he canons of construction used to interpret statutory language apply with equal force to the interpretation of a charter provision. *Cherry v. Mayor & City Council of Balt. City*, 475 Md. 565, 598, 257 A.3d 1087 (2021) (citations omitted). “We construe local ordinances and charters under the same canons of statutory construction as we apply to statutes.” *Prince George’s Cnty. v. Thurston*, 479 Md. 575, 586, 278 A.3d 1251, 1258 (2022)

The first step when conducting such an analysis is to look at the words used by the framers as they are the best indication of the framer’s intent. *Id.* Interestingly, the Petitioners and the Referendum Committee contend the Court need look no further than the language in §308(a) to determine whether Ordinance 26-01-001 is referable. Petitioners argue:

Charter § 308 reaches only “a law, or part of a law, enacted pursuant to th[e] Charter.” Ordinance 26-01-001 meets neither requirement. It is not a “law,” because the Charter’s text reserves that term for measures passed through the mandatory bill-and-law process that the Council did not use here. And

it was not “enacted pursuant to th[e] Charter,” because every step was taken “pursuant to” the Land Use Article, specifically the procedures that §601 of the Charter deliberately preserved as separate from the Council’s §§301-310 lawmaking authority.

Pet. Quantum Maryland, LLC, Mem. Of Law, (filed 6/4/26), at 15.

The Referendum Committee maintains Petitioners’ reading of the term “law” in §308(a) is too restrictive. It argues the Election Director ruled correctly because Ordinance 26-01-001 is a “law” and the topic of its proposed referendum does not fall within one of the explicitly enumerated categories exempt from referendum under §308(a). The Referendum Committee notes that the stated exceptions to the referendum power conferred in §§308(a)(1-4) include actions that take place outside of the legislative powers the Charter confers on the County Council. *Respondent’s Answering Memorandum of Law, (filed 6/9/26), at 12.* As such, the term “law” includes ordinances passed by the County Council.

The Election Director states the language appearing in §308 is confusing because the term “law” is not defined in the Charter, and the compelling arguments made by the Petitioners and the Referendum Committee demonstrate that the Court cannot look just to the language used in §308(a) to discern the intent of the Charter’s framers. The Election Director’s position is supported by the Appellate Court of Maryland:

If ... the language of the statute is ambiguous, “then courts consider not only the literal and usual meaning of the words, but their meaning and effect in light of the setting, the objectives and purpose of the enactment under consideration.” *75-80 Props., L.L.C. v. Rale, Inc.*, 470 Md. 598, 624, 236 A.3d 545 (2020) (quoting *Md. Nat’l Cap. Park & Planning Comm’n v. Anderson*, 395 Md. 172, 182, 909 A.2d 694 (2006)). Statutory language is ambiguous if there are “two or more reasonable alternative interpretations of the statute.” *Price v. State*, 378 Md. 378, 387, 835 A.2d 1221 (2003). When deciding whether a statute is ambiguous, we ask whether the statute’s “plain meaning [is] evident” or whether it is “reasonably susceptible of two inconsistent but nonetheless rational meanings.” *David N. v. St. Mary’s Cnty. Dep’t Social Servs.*, 198 Md. App. 173, 193, 16 A.3d 991 (2011).

State v. Williams, 255 Md. App. 420, 441, 282 A.3d 292, 304 (2022). The Court agrees with the Election Director on this point and finds §308(a) ambiguous as there are two inconsistent but rational interpretations that could be reached by review of the language used.

The Court then looks to how the topic of the referendum is read in context of the overall charter and how it relates to other charter provisions. *Thurston*, 479 Md. at 587, 278 A.3d at 1258. In *Thurston*, the Supreme Court noted courts are “to ensure that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory.” *Id.*, quoting *Neal v. Baltimore City Board of School Commissioners*, 467 Md. 399, 415, 225 A.3d 66, 75 (2020). And, although not required, “it is often prudent to examine the legislative history ...”. *Neal*, 467 at 415-16, 225 A.3d at 75.

Frederick County voters approved its Charter in 2012, and it took effect on December 1, 2014. The Charter consists of a preamble and eight (8) articles. Article 2 creates the County Council and §202 states: “All the legislative powers which the County may exercise under the Maryland Constitution and laws of the State are vested in the Council, subject to those powers retained by the people of the County as set forth in Section 308 of this Charter.” *Frederick County Charter, Article 2, Section 202*. The Charter also includes Article 6 which deals with “Land Use”. Section 601(a) reads: “It is the policy of Frederick County that the provisions of the Land Use Article of the Annotated Code of Maryland that governed land use in the County prior to the Effective Date of this Charter shall continue to apply as if they have been codified in the Code of Public Local Laws of Frederick County on the Effective Date of the Charter.” *Frederick County Charter, Article 6, Section 601(a)*.

The Petitioners state in their Memorandum of Law, that Ordinance 26-01-001 was not enacted pursuant to the County’s Charter. *Pet. Quantum Maryland, LLC, Mem. of Law, (filed 6/4/26), at 1*. The Court disagrees with that statement. The County Council passed Ordinance 26-01-001 as part of a zoning map amendment pursuant to its role authorized by the State of Maryland’s Land Use article which was incorporated into the Frederick County Charter through Article 6. Thus, the Ordinance was enacted pursuant to the Charter, not through the Council’s legislative authority in Section 202, but through the Council’s authority to act pursuant to the State’s Land Use article granted in §601 of the Charter. Recognizing these separate grants of authority, the Court agrees with the Petitioners’ view that the Frederick County Charter establishes two distinct tracks for the County Council to act: 1) the authority to enact public local laws pursuant Article 2 of the Charter via Article XI-A §3 of the Maryland Constitution; and 2) the authority to enact

zoning regulations and maps created by the Planning Commission as authorized by Article 6 of the Charter which adopted the provisions of the Land Use Article. The County Council's authority to act under the provisions of the Land Use Article are distinct from its authority to enact public local laws under its general legislative authority.

Petitioners cite the Maryland Supreme Court in *Dzurec v. Cnty Bd. of Comm'rs*, 482 Md. 544, 553-54 (2022) as a review of how the Land Use Article is implemented in charter counties:

In Maryland, counties and municipal corporations having planning and zoning authority are required to adopt a "comprehensive plan." Md. Code (2012 Repl. Vol., 2022 Supp.), LU ("LU") §§ 1-405, 3-101. "Plans are developed to guide the implementation of LU controls and zoning in a rational way that is beneficial to the public." *County Council of Prince George's County v. Zimmer Dev. Co.*, 444 Md. 490, 520, 120 A.3d 677 (2015) (citations omitted). A comprehensive plan generally applies to a substantial area and is the product of years of long study and public input. *Id.* at 520-21. Under State law, the comprehensive plan must include certain elements, including community facilities, LU, sensitive areas, water resources, and transportation elements. *See* LU §§ 1-406(a), 3-102(a). The preparation of a comprehensive plan is undertaken by the planning commission of the local jurisdiction and presented to the local legislature for adoption. *See* LU §§ 1-406(a)(1), 1-415(b), 3-102(a), 3-202(a). The legislative body is required to adopt a comprehensive plan by legislative act. Once a local jurisdiction adopts a comprehensive plan, it may then adopt zoning, development, and subdivision regulations to implement the plan. *See* LU §§ 1-415(b), 3-303(b). The local jurisdiction is also required to review its comprehensive plan "[a]t least once every 10 years . . . and, if necessary, revise or amend" the plan to ensure that it includes the elements and visions required under State law. LU §§ 1-416(a), 3-301.

Id. 482 at 553-54.

The question in this case thus becomes whether an ordinance passed by the Council acting through the provisions of the Land Use Article are referable. The answer lies in the work of the Frederick County Charter Board. Prior to adopting its Charter in 2014, Frederick County was led by the Board of County Commissioners. On March 10, 2011, the Commissioners appointed a nine-member board to draft the charter for Frederick County pursuant to Article XI-A of the Maryland Constitution. The Charter Board members thus became the framers of Frederick County's constitution.

The Charter Board conducted meetings and on December 11, 2011 it discussed what would be referable. The Court finds instructive that at the same time it discussed referendums, the Charter Board also discussed the Land Use Article (formerly Article 66B).² During the meeting, there is discussion that the Charter Board intentionally declined to identify zoning as an express exception from referendum so as not to confuse the public into thinking anything about land use was changing. The members discussed other counties expressly exempt zoning ordinances from referendum; one speaker noted that “if we keep 66B, . . . there’s other ways of appeal, and therefore you don’t need to have a referendum on a zoning matter.” *Recording* at 1:47:45.3. A second member agreed that calling out a zoning exception would be “irrelevant” because, under Article 66B, “there’s already a process. You don’t need to go to referendum. You can appeal. So ... I would rather not call it out, but I would rather put 66B very prominently in our charter, because that’s what we’re used to.” *Recording* at 1:48:38.

It is significant that the Frederick County Charter Board discussed the referendums and Article 66B at the same time. Contrary to the Committee’s claim that the Charter Board chose to limit the few exceptions to referendum to only the four that appear in §308(a), the Court cannot ignore the Charter Board’s discussions at the meeting on December 11, 2011. Those discussions clearly show the Charter Board decided to continue the practice in Frederick County of not allowing referendums on zoning matters and to not include zoning as an express exception so as not to confuse the public into thinking anything about land use was changing. The appeal process afforded Article 66B would continue.

For these reasons, it is this Court’s decision that Ordinance 26-01-001 passed by the County Council for Frederick County, MD is not a law subject to referendum. As such, the decision of the Election Director of the Frederick County Board of Elections to certify for referendum Frederick County Council Ordinance 26-01-001 is reversed and vacated.

To address all counts presented by Petitioners in their Petitions, the Court will address Petitioners’ request for declaratory relief. They ask the Court to declare the

² The link to the meeting recording is: https://frederick.granicus.com/MediaPlayer.php?clip_id=3055

Referendum Petition legally deficient because it failed to contain “the full and accurate text” of Ordinance 26-01-001. The Frederick County Charter states:

A petition to refer a law, or portion of a law, to the voters of the County shall meet the requirements of State law and may consist of several papers, but each paper shall contain the full and accurate text of the law, or part of the law, that is subject to the petition.

Frederick County Charter, Article 3, § 308(b). In the papers it presented to signors for their consideration, the Referendum Committee reduced the font from what appears in the text of Ordinance 26-01-001 passed by the County Council. *Ex. P05, trial June 12, 2026*. The papers also did not include a colorized version of Exhibit A attached to the written ordinance. Exhibit A, which included the colorized maps, was specifically incorporated by reference to Ordinance 26-01-001. *Ex. P12 p.2, trial June 12, 2026*. Petitioners argue that by reducing the font of the text and failing to use the colorized version of the attached exhibit, a full and accurate text was not presented to prospective signors as required by § 308(b). Petitioners maintain, the signors’ true understanding about the Ordinance is not known because they were not presented with a full and accurate text.

At oral argument the Referendum Committee first reminded the Court that the right to petition for referendum is a first amendment right. The Court agrees but that is not the end of the analysis. The constitutional, fundamental right to bring a referendum petition must be balanced against the state’s interest in protecting the integrity of the referendum process. As the Appellate Court of Maryland stated:

The referendum process is a “basic instrument of democratic government.” *Ritchmount*, 283 Md. at 61, 388 A.2d 523 (quoting *Eastlake v. Forest City Enters., Inc.*, 426 U.S. 668, 679, 96 S.Ct. 2358, 49 L.Ed.2d 132 (1976)). Moreover, the act of circulating a referendum petition can constitute “core political speech’ because it ‘involves interactive communication concerning political change.’” *Buckley*, 525 U.S. at 186, 119 S.Ct. 636. Such activity is afforded “First Amendment protection ... at its zenith.” *Id.* at 187, 119 S.Ct. 636. On the other hand, states have an “undoubtedly important interest in protecting the integrity and reliability of the initiative process.” *Doe v. Reed*, 561 U.S. 186, 197, 130 S.Ct. 2811, 2819, 177 L.Ed.2d 493 (2010); *see also Buckley*, 525 U.S. at 191–92, 119 S.Ct. 636 (States “allowing ballot initiatives have considerable leeway to protect the integrity and reliability of the initiative process, as they have with respect to election processes generally....”).

The tension between the concepts of “constitutional protection at its zenith” and “considerable leeway” is resolved on a case-by-case basis and the Supreme Court has noted that there is “‘no litmus-paper test’ [to] separate valid ballot-access provisions from invalid interactive speech restrictions....” *Id.* at 192, 119 S.Ct. 636 (quoting *Storer v. Brown*, 415 U.S. 724, 730, 94 S.Ct. 1274, 39 L.Ed.2d 714 (1974)). Instead:

A court considering a challenge to a state election law must weigh the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against the precise interests put forward by the State as justifications for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff’s rights.

Under this standard, the rigorousness of our inquiry into the propriety of a state election law depends upon the extent to which a challenged regulation burdens First and Fourteenth Amendment rights. Thus, as we have recognized when those rights are subjected to severe restrictions, the regulation must be narrowly drawn to advance a state interest of compelling importance. But when a state election law provision imposes only reasonable, nondiscriminatory restrictions upon the First and Fourteenth Amendment rights of voters, the State’s important regulatory interests are generally sufficient to justify the restrictions. (Citing *Burdick v. Takushi*, 504 U.S. 428, 433–434, 112 S.Ct. 2059, 119 L.Ed.2d 245 (1992).

Howard Cnty. Citizens for Open Gov't v. Howard Cnty. Bd. of Elections, 201 Md. App. 605, 626–27, 30 A.3d 245, 258–59 (2011).

The issue of political speech was not briefed by the parties and the discussion of political speech only came up at times during oral argument, sometimes in response to the Court’s questions. Nevertheless, the Court is satisfied that §308 falls within the substantial latitude granted to counties and the state to protect the integrity of the referendum process with little effect on the political speech of those who seek a referendum. The Court further notes that though the sponsors exercise political speech during the referendum process, their acts must comply with reasonable provisions imposed by the state which are designed to protect the integrity of the referendum process.

The Referendum Committee next responds that evidence of scripts used by circulators possibly being inaccurate or misleading, and evidence of claims that the circulators were not thoroughly trained is not relevant. The Court agrees. First, there is

no evidence that the scripts were used every time a signature was obtained or even enough times to invalidate so many signatures to have the referendum fall below the needed voter threshold. The Court is also satisfied that the Referendum Committee leaders worked diligently in their attempt to make sure that they and the circulators complied with the referendum rules, regulations, and laws.

The Court also agrees that the opinion of others regarding the use of a colorized version of the law and the font size is not relevant. The determination whether the Referendum Petition complied with §308(b) when it presented the maps in black and white with reduced font, is a determination to be made by the Election Director. Once she verifies and validates that enough signatures contained in the referendum petition have been presented, she must then determine whether the petition “has satisfied all other requirements established by law.” See *MD Code, Election Law, §6-208(a)(2)*. Section 6–206(c)(1)–(6) of the Election Law Article lists six possible deficiencies which the Election Director must consider. She must decline certification if she finds a deficiency under any one of the six. The Court’s focus is on two possible deficiencies that could be found; one described in §6-206(c)(5)(i) and the other in §6-206(c)(6). Pursuant to §6-206(c)(5)(i), the Election Director must decide whether the “use of the petition for the subject matter of the petition is authorized by law”. She may seek legal advice on this issue, but it is her decision to make. And, pursuant to §6-206(c)(6), the Election Director must find a referendum petition deficient if “it has failed to satisfy some other requirement established by law”. This is also the Director’s determination to make. So, though others may give their opinions and concerns regarding these matters, it remains the Director’s decision.

In her April 3, 2026 letter, the Election Director informed the Referendum Committee that she determined there is no deficiency under §6-206(c)(6) or with any of the first four possible deficiencies listed in §6-206(c)(1-4). As for the possible deficiency listed in §6-206(c)(5)(i), she stated she could not affirmatively determine a deficiency but relying upon a “presumption of sufficiency”, she was able to certify the petition. Counsel for the Director did not identify legal authority for the “presumption of sufficiency”. He argued that the presumption is built into the statute and that it is just one of many instances when the Director relies upon individuals to speak the truth as they exercise

their franchise. In this matter, however, we are dealing with what must be in a referendum petition, which is one of the times that an election director must decide whether “the use of the petition for the subject matter of the petition is not authorized by law”.

In any event, the effect of the Director’s decision was that she found no deficiency when the Referendum Committee sought a challenge to a zoning decision by the County Council. On this point she erred. For the reasons stated above, the Court declares that the zoning ordinance passed by the County Council is not a “subject matter” about which a referendum may be pursued pursuant to Frederick County’s Charter.

The Court further declares that the Referendum Committee’s Petition was deficient pursuant to §6-206(c)(6). Under §308(b) of the Charter, a referendum petition is not sufficient unless it contains a “full and accurate text of the law”. On this issue, the Court finds guidance in *Gray v. Howard County Board of Elections*, 218 Md. App. 654 (2014). *Gray* is distinguishable from the present case, in that the Appellate Court was asked to determine whether a summary of an ordinance was “fair and accurate” as required by Election Law §6-201(c)(2)(i), as opposed, as here, whether the Referendum Committee’s decision to present the entire text with reduced font and Exhibit A in black and white, was “full and accurate” as required by §308(b) of the Charter. In reaching its decision that the summary was not “fair and accurate”, the appellate court in *Gray* stated the words used must be such that they permit voters to exercise “intelligent and enlightened judgment” when considering the referendum petition. The summary must be free from presenting a “misleading tendency, amplification, or omission”. *Gray* at 685. The same standard should be applied when the proponents of a referendum submit the entire text.

Exhibit A to Ordinance 26-01-001 contains two maps: one titled “Council Adopted Critical Data Infrastructure (CDI) Overlay Zone”, and one titled “Council Adopted Zoning”. *Ex. P12, trial June 16, 2026*. Notably, the maps are colorized. However, the maps contained on the Referendum Committee’s petition, circulated to signors, are in black and white with a reduced text font than the font size appearing in the in Ordinance 26-01-001. *Ex. P01, trial June 16, 2026*. The “Council Adopted Zoning” map in Exhibit A uses ten different colors to designate different zoning regulation zones; and the “Council

Adopted Critical Data Infrastructure (CDI) Overlay Zone” map in Exhibit A of the Ordinance contains yellow “internal” division lines. *Id.* The Referendum Committee’s maps do not reproduce: i) the different colors assigned to the different zones; or ii) the yellow “internal” division lines. *Ex. PO5, trial June 16, 2026.* The maps in Exhibit A also contain legible street names to indicate where the zone is located. The Referendum Committee’s reproduction of the maps makes the street names illegible.

The Referendum Committee noted that language on the maps in Exhibit A states: “Reliance on this map is at the risk of the user.” However, any significance to be given to this language is superseded by the language in the main body of the ordinance which states: “NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND that the zoning and land use designation, as set forth in Exhibit A, which is attached hereto and incorporated by reference, shall hereinafter be as designated in the exhibit.” The maps are an integral part of the ordinance, and they needed to be clearly delineated to the signors. The black and white zoning maps contained in the Referendum Committee’s petition do not accurately reflect the areas of land that are subject to data center development under the Ordinance.

Without the colorized version, the locations of different zoning areas are indistinguishable. The significance of clearly knowing what land is affected is highlighted by the fact that the Comprehensive Plan Amendment used colorized maps. *Ex. PO7, trial June 16, 2026.* Knowing where the computer data centers may be located is critical to understanding Ordinance 26-01-001. The Court finds the Referendum Committee’s failure to include the colorized maps in its petition to be fatal to its attempts to bring Ordinance 26-01-001 to referendum. Voters cannot exercise “intelligent and enlightened judgment” of a zoning maps if the maps they review are not a “full and accurate” representation of the land subject to the zoning ordinance.

Therefore, the Court declares that the Referendum Committee’s Petition failed to comply with §308(b) of the Frederick County Charter as it did not contain a “full and accurate” text of Ordinance 26-01-001. The Election Director’s decision to certify the Committee’s petition for referendum was an error of law. *Cf. Gray, 218 Md. App. at 662, 98 A.3d at 428-29* (“To determine whether the summary provided by the petition was

“fair and accurate,” the Election Director had to do no more than ascertain whether the petition fairly and accurately described and interpreted certain provisions of the county law. Whether the Election Director correctly did so is plainly, in our view, a question of law, a question for which we may substitute our judgment for that of the Election Director.”)

Petitioners also request a writ of mandamus. Since their request is in the alternative to their declaratory relief, which the Court is granting in Petitioners’ favor, the Court does not address the mandamus issue.

UPON CONSIDERATION of the foregoing, and with the intent to make this a final judgment resolving all issues pending before the Court in all the above-captioned matters, it is this 21st day of June, 2026, by the Circuit Court for Frederick County, Maryland,

ORDERED, that the decision of the Election Director of the Frederick County Board of Elections to certify for referendum Frederick County Council Ordinance 26-01-001 is reversed; and, it is further,

DECLARED, that pursuant to the Charter of Frederick County, Ordinance 26-01-001 passed by the County Council of Frederick County is not a subject matter about which a referendum may be pursued; and, it is further

DECLARED, that the Frederick County Data Center Referendum Committee’s referendum petition is deficient pursuant to MD Code, Election Law §6-206(c)(6) because it fails to provide a “full and accurate text of the law” as required by *Frederick County Charter, Article 3, § 308(b)*; and, it is further

ORDERED, that all other requests for relief in the Petitions filed in the above-captioned matters are DENIED.



JAMES A. BONIFANT
SENIOR JUDGE, Specially Assigned
Circuit Court for Frederick County, MD

06/21/2026 9:18:16 PM

Entered: Clerk, Circuit Court for
Frederick County, MD
June 22, 2026

To be filed in all consolidated cases.