

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

ROWAN FREDERICK LLC,  
1400 16<sup>th</sup> Street  
Suite 330  
Denver, Colorado 80202

ROWAN FREDERICK II LLC,  
1400 16<sup>th</sup> Street  
Suite 330  
Denver, Colorado 80202

and

ROWAN FREDERICK III LLC,  
1400 16<sup>th</sup> Street  
Suite 330  
Denver, Colorado 80202

**Plaintiffs,**

v.

FREDERICK COUNTY BOARD OF  
ELECTIONS  
8490 Progress Drive  
Suite 300  
Frederick, Maryland 21701

Serve on:  
Barbara Wagner  
8490 Progress Drive  
Suite 300  
Frederick, Maryland 21701

and

BARBARA WAGNER  
*(In her official capacity as  
Election Director)*  
8490 Progress Drive  
Suite 300  
Frederick, Maryland 21701

**Defendants**

Case No. C-10-CV-26-000326

**Filed Under Md. Code. Elec. Law § 6-209  
Subject to Expedited Review**

## PETITION FOR JUDICIAL REVIEW

Plaintiffs Rowan Frederick LLC, Rowan Frederick II LLC and Rowan Frederick III LLC, (collectively “Plaintiffs”) by and through their attorneys, Charles R. Schaller, Christopher C. Dahl, Michael A. Brown, and Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., bring this Petition for Judicial Review under Md. Code. Elec. Law § 6-209, for Mandamus, and for Declaratory Judgment, against the Frederick County Board of Elections and Barbara Wagner in her official capacity as Election Director (together with any successors in that role), and in support thereof, state as follows:

### PARTIES

1. Plaintiff Rowan Frederick LLC (“Rowan 1”) is a Delaware Limited Liability Company registered to do business in the state of Maryland and having a principal place of business in Denver, Colorado. Rowan 1 is the owner of the parcel of real property identified as:

- a. Lot 400 as shown on plat entitled “Final Plat, Lot 400, Open Space Parcel ‘Q’ & Happy Landing Road, Quantum Frederick” and recorded among the Land Records of Frederick County, Maryland in Plat Book 110, page 183.

2. Plaintiff Rowan Frederick II LLC (“Rowan 2”) is a Delaware Limited Liability Company registered to do business in the state of Maryland and having a principal place of business in Denver, Colorado. Rowan 2 is the owner of two parcels of real property identified as:

- a. Parcel One – Lot 302 as depicted on Plat Entitled “Addition Plat, part of the lands of Quantum Maryland, LLC (Lot 303, “Quantum Frederick”), Addition to Quantum Maryland, LLC (Lot 302, “Quantum Frederick”)” and recorded among the Land Records of Frederick County, Maryland in Plat Book 111, Page 180.

- b. Parcel Two – Lot 304 as depicted on a Plat Entitled “Lots 302-304, Outlot 3, Parcels D & E and Happy Landing Road” and recorded among the Land Records of Frederick County, Maryland in Plat Book 111, Page 164.
3. Plaintiff Rowan Frederick III LLC (“Rowan 3”) is a Delaware Limited Liability Company registered to do business in the state of Maryland and having a principal place of business in Denver, Colorado. Rowan 3 is the owner of the three parcels of real property identified as:
  - a. Parcel One – “New Area of Lot 102 as shown on plat entitled “Addition Plat, Part of the Lands of Quantum Maryland, LLC (Lot 101 & Part of Lot 102, “Quantum Frederick”) to Quantum Maryland, LLC (Lot 100, “Quantum Frederick”) and Part of the Lands of Quantum Maryland, LLC (Lot 105, “Quantum Frederick”) to Quantum Maryland, LLC (Lot 102, “Quantum Frederick”) and recorded among the Land Records of Frederick County, Maryland in Plat Book 112, page 135.
  - b. Parcel Two - “Lot 112C as shown on plat entitled “Final Plat, Lots 100-102, 105, 112C & 112D, Quantum Frederick” and recorded among the Land Records of Frederick County, Maryland in Plat Book 112, page 123.
  - c. Parcel Three – “Lot 112D as shown on the a plat entitled “Final Plat, Lots 100-102, 105, 112C & 112D, Quantum Frederick” and recorded among the Land Records of Frederick County, Maryland in Plat Book 112, page 123.
4. Defendant Frederick County Board of Elections (the “Board of Elections”) is an agency and instrumentality of the State of Maryland, authorized and created by Md. Code. Ann., Election Law Article (“Elec.”) § 2-201, *et seq.* The Board of Elections is empowered to make rules consistent with State laws to ensure the proper and efficient registration of voters and conduct of

elections, oversee the conduct of all elections in Frederick County, and to make determinations as provided by law, including determinations on the sufficiency or deficiency of petitions for referendum. The Board of Elections maintains its principal office at 8490 Progress Drive, Suite 300 Frederick, Maryland 21701.

5. Defendant Barbara Wagner is the current Election Director at the Board of Elections. In her capacity as Election Director, Ms. Wagner is required to make determinations as to the legal sufficiency of referendum petitions, including whether the “use of the petition for the subject matter of the petition is not authorized by law.” Elec. § 6-206(c).

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over the Defendants pursuant to Md. Code. Ann., Courts and Judicial Proceedings (“Cts.”) § 6-102, *et seq.*, as they maintain their principal location or otherwise carry out their business in Frederick County, Maryland.

7. This Circuit Court has subject-matter jurisdiction over this matter pursuant to Cts. § 1-501, and Elec. § 6-209.

8. Venue is proper pursuant to Cts. § 6-201, as Defendants all regularly engage in business and have their principal offices in Frederick County, and pursuant to Elec. § 6-209(a).

#### **FACTS COMMON TO ALL COUNTS**

9. On September 2, 2025, the Frederick County Council enacted Bill 25-09, titled “An Act to Establish a Critical Digital Infrastructure Overlay Zone 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.” (hereinafter the “CDI Law”). The CDI Law is attached hereto as **Exhibit A**.

10. The CDI Law was the result of an exhaustive, years-long legislative process, which included numerous public hearings and public workshops, and was the result of bi-partisan compromise. Through the CDI Law, the County Council sought to rezone lands that were abandoned by the former Alcoa Eastalco Works aluminum manufacturing facility, transforming those abandoned industrial lands into areas for development for Critical Digital Infrastructure.

11. The CDI Law was carefully crafted to “best utilize existing infrastructure, and ensure that industrial land elsewhere in the County is available for target industries such as life sciences.”<sup>1</sup>

12. The CDI Law became effective on November 1, 2025. Under the new CDI Law, the Frederick County Council was authorized to establish a “Critical Digital Infrastructure Overlay Zone,” to be established by “*ordinance* and identified on the Zoning Map.” See **Exhibit A**, at p. 8, under § 1-19-10.1100 (B) (emphasis added).

13. The ordinance authority granted to the Frederick County Council under the CDI Law is consistent with the Council’s authority under the state land use laws, which permit legislative bodies, such as the Frederick County Council, to “regulate the construction, alteration, repair, or use of buildings, structures, or lands.” See Md. Code Ann., Land Use § 4-201, *et seq.* (“LU law”)

14. On January 20, 2026, the Frederick County Council, acting under its authority under the LU law and its administrative, quasi-legislative authority pursuant to the CDI Law, enacted Ordinance No. 26-01-001, titled “Comprehensive Zoning for the Critical Digital

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<sup>1</sup><https://www.frederickcountymd.gov/Search?searchPhrase=Critical%20Digital&pageNumber=1&perPage=10&departmentId=-1#docaccess-cf9157c495fbf8d21380ccf83a74d2d18736de7fd91367e5745b6616e043ee66>

Infrastructure Overlay Zone – An Element of the Livable Frederick County, Maryland” (hereinafter “the Ordinance”). The Ordinance is attached hereto as **Exhibit B**. The Ordinance set forth the amendments to the Zoning Map which established the Critical Digital Infrastructure Overlay Zone.

15. Plaintiffs own real property located with the Critical Digital Infrastructure Overlay Zone under special warranty deed record in the Frederick County Land Records at: 1) book 16863, page 188; 2) book 17229, page 85; and 3) book 17459, page 331. Plaintiffs are in the process of developing certain properties and/or applying for County approval of certain CDI structures to be operated within the Critical Digital Infrastructure Overlay Zone in accordance with the CDI Law. Therefore, Plaintiffs have a special interest in the outcome of this legislation as the record owners of real estate that is directly and adversely impacted by the Ordinance.

16. On March 19, 2026, the Frederick County Data Center Reform Committee, (“FCDCRC”), a State-registered Ballot Issue Committee, submitted a petition to the Board of Elections to place the Ordinance on the ballot for referendum pursuant to the Frederick County Charter, Article 3 Section 308.

17. Under Section 308 of the Frederick County Charter, only “laws” enacted under Article 3 of the Charter may be referred to the voters for approval via referendum.

18. The Ordinance is not a “law” within the meaning of Article 3 of the Frederick County Charter.

19. Rather, the Ordinance is the result of an administrative, quasi-legislative act of the Frederick County Council within its statutory powers created by the CDI Law and the powers granted to it via the LU law.

20. The conclusion that the Ordinance is not a “law” as contemplated by the County Charter is supported by several key indicators under the County’s law making process, including: (a) the Charter’s requirement that any law be enacted by a “written bill” (Frederick County Charter § 305(a)); (b) that each written bill must be introduced and read and formatted as they would appear in the law (*Id.* § 305(b)); (c) that bills may be rejected by five votes upon introduction (*Id.* § 305(d)); (d) that bills or a fair summary thereof must be advertised in newspapers of general circulation (*Id.* § 305(d)); (e) that bills not enacted within 90 days of introduction or prior to the month of November are void (*Id.* § 305(f)); (f) that bills must be presented to the executive for signature or veto within ten business days after passage (*Id.* § 306(d)); and (g) that bills do not become effective until 60 days after final approval, allowing 59 days to a referendum effort (*Id.* § 307).

21. Applied to the Ordinance, there was no written bill, meaning it was not introduced or read as it would appear in the law. Upon information and belief, there likewise was no effort to advertise the Ordinance in local newspapers. The Ordinance, by its plain terms, became effective immediately. The Ordinance was not presented to the executive for signature or veto. In fact, the Ordinance was not subject to the executive’s veto power whatsoever. All of these factors further demonstrate that the Ordinance was not a “law” within the meaning of Article 3 of the Charter, and therefore is not subject to a referendum under Section 308.

22. Upon information and belief, prior to effecting the Ordinance, the County Council was advised by legal counsel to the County that the Ordinance was not a “law” within the meaning of Article 3 of the Charter and therefore should not be subject to referendum.

23. However, on April 3, 2026, the Board of Elections, via its Director Ms. Wagner, issued its letter opinion permitting the Ordinance to be placed on the ballot for referendum. A copy

of the letter opinion is attached hereto as **Exhibit C**. In issuing that letter opinion, the Board of Elections, via Ms. Wagner, stated it was “unable to make a determination that the petition is not authorized by law under EL 6-206(c)(5)(i).” However, the Board of Elections, via Ms. Wagner, opined that “there is a presumption of sufficiency,” and accordingly concluded that “the petition is sufficient for purposes of EL 6-206.”

24. Based on the Board of Elections letter disposition, the Ordinance is now set to be placed on the ballot for citizen referendum under Section 308 of the Frederick County Charter in the upcoming general election.

25. The Board of Elections, via Ms. Wagner, should not have approved the FDCRC’s petition as the Ordinance does not qualify as a “law” under Article 3 subject to referendum. As the chief election official, Ms. Wagner was required to determine if the petition was deficient, with one determining factor of deficiency being “based on the advice of legal authority” whether “the use of a petition for the subject matter of the petition is not authorized by law.” *See Elec. § 6-206(5)(i)*.

26. Upon information and belief, the Board of Elections received legal authority from counsel that the Ordinance was not a “law” that was subject to referendum, thereby making the petition “not authorized by law.” Despite that authority, the Board of Elections, via Ms. Wagner, approved the petition based on an unfounded “presumption” that the petition was sufficient.

27. Plaintiffs now file suit seeking judicial review of the Board of Election’s decision.

**COUNT I**  
**(Petition for Judicial Review Pursuant to Election Law § 6-209)**

28. Plaintiffs restate and incorporate by reference the allegations contained in Paragraphs 1-27 as set forth above.

29. Section 6-209(a) of the Election Law Article gives any “person aggrieved” the right to seek judicial review of the chief election official’s determination of sufficiency or deficiency under Section 6-206.

30. This Court is empowered to “grant relief as it considers appropriate to ensure the integrity of the electoral process.” § 6-209(a)(2).

31. Further, a proceeding brought under § 6-209 “shall be heard and decided without a jury and as expeditiously as the circumstances require[.]” § 6-209(a)(3)(i).

32. Since the Ordinance is not a “law” within the meaning of Section 308 of the Frederick County Charter, it is not subject to referendum, and therefore the petition submitted by FCDCRC should have been denied by the Board of Elections as deficient.

33. Plaintiffs are the owner of real property located within the Critical Digital Infrastructure Overlay Zone as proposed by the Ordinance. As such, Plaintiffs are aggrieved by the Board of Election’s decision, which may result in the Ordinance being stricken, thereby preventing the development of Critical Digital Infrastructure on Plaintiffs’ property.

34. Accordingly, Plaintiffs seek judicial review of the Board of Elections April 3, 2026 finding that the petition was not deficient.

WHEREFORE, and for good cause shown, Plaintiffs hereby seek judicial review of the Board of Elections April 3, 2026 decision, and requests that the Court rescind that finding, and direct the Board of Elections to deny the petition for referendum as deficient.

**COUNT II**  
**(Writ of Mandamus Pursuant to Md. Rule 15-701)**

35. Plaintiffs restate and incorporate by reference the allegations contained in Paragraphs 1-27 as set forth above.

36. In the alternative to the relief sought by Plaintiffs under Count I, Plaintiffs seek, pursuant to Md. Rule 15-701, a writ of mandamus to compel Defendants to perform their statutory duties.

37. Under Elec. Law. 6-206(c)(5)(i), the Board of Elections, via its chief election official Ms. Wagner, “shall declare that the petition is deficient if the chief election official determines that... the use of a petition for the subject matter of the petition is not authorized by law.”

38. The Ordinance, which is the subject matter of the petition, is not authorized under the Frederick County Charter to be subject to a referendum as it is not a “law” within the meaning of Article 3 of the Charter. Rather, the Ordinance is the result of the Frederick County Council’s administrative, quasi-legislative authority to act within its designated powers and authority provided to it by the CDI Law and the LU law.

39. In dereliction of its statutory obligations, the Board of Elections, via its election of director Ms. Wagner, stated it was “unable to make a determination that the petition is not authorized under” Elec. § 6-206(c)(5)(i), yet still approved the Petition based on an unfounded “presumption” of sufficiency.

40. Plaintiffs, real property owners within the Critical Digital Infrastructure Overlay Zone to be created by the Ordinance, have a clear right to have the Ordinance excluded from the upcoming election ballot because it is not a “law” within the meaning of Section 308 of the Frederick County Charter.

41. Plaintiffs have no adequate remedy by which they can obtain their right to exclude the referendum from appearing on the ballot absent an order from this Court.

WHEREFORE, and for good cause shown, Plaintiffs hereby seek a writ of mandamus directing the Board of Elections to perform its obligation to declare the petition as deficient as its subject matter is not authorized by law to be subject to a referendum.

**COUNT III  
(Declaratory Judgment)**

42. Plaintiffs restate and incorporate herein by reference the allegations contained in Paragraphs 1-27 as set forth above.

43. An actual controversy exists between the Plaintiffs and the Defendants within the meaning of Cts. § 3-409 because the Defendants certified a referendum sufficiency decision concerning the Ordinance on April 3, 2026, despite that Ordinance not being a “law” subject to referendum under Article 3 of the Charter.

44. Plaintiffs maintain that the Ordinance is not a “law” within the meaning of Section 308 of the Frederick County Charter and therefore is not subject to a referendum.

45. The Board of Elections conversely declared the petition “sufficient,” based on a “presumption of sufficiency” which now has the effect of treating the Ordinance as a “law” subject to Section 308 of the Frederick County Charter.

46. Accordingly, an actual and judiciable controversy exists between the parties as to whether the Ordinance is a “law” within the meaning of Section 308 of the Frederick County Charter and whether the Defendants’ decision erroneously treated it as a “law” in approving the petition for referendum.

47. A declaratory judgment by this Court will terminate this controversy.

WHEREFORE, and for good cause shown, Plaintiffs hereby seek declaratory relief from this Court that the Ordinance is not a law subject to Section 308 of the Frederick County Charter

and that the Defendants' decision erroneously treated it as a "law" in approving the petition for referendum, along with an award of costs under Cts. § 3-410.

DATED: April 13, 2026

Respectfully submitted,

/s/ Charles R. Schaller

Charles R. Schaller (AIS #9106200250)  
Christopher C. Dahl (AIS #1012140177)  
Michael A. Brown (AIS # 1812110045)  
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*Counsel for Plaintiffs*

C-10-CV-26-000326

E-FILED; Frederick Circuit Court  
Docket: 4/13/2026 5:34 PM; Submission: 4/13/2026 5:34 PM  
Envelope: 25999033

# EXHIBIT A



Bill No. 25-09  
Concerning: Critical Digital Infrastructure Overlay  
Zone  
Introduced June 17, 2025  
Revised: August 19, 2025 Draft No. \_\_\_\_\_  
Enacted: September 2, 2025  
Effective: November 1, 2025  
Expires: September 15, 2025  
Frederick County Code, Chapter 1-19  
Section(s) 5.310, 8.402, 8.403, 10.1100

## COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Brad Young on behalf of County Executive Jessica Fitzwater

**AN ACT** to: Establish a Critical Digital Infrastructure Overlay Zone 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.

Date Council Approved: 9/2/2025 Date Transmitted to Executive: 9/3/2025  
Executive: Jessica Fitzwater Date Received: 9/3/2025  
Approved: ✓ Date: 9/12/25  
Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_  
Date returned to Council by County Executive with no action: \_\_\_\_\_

By amending:  
Frederick County Code, 1-19 Section(s) 5.310, 8.402, 8.403, 10.1100  
Other: \_\_\_\_\_

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Underlining  
[Single boldface brackets]  
\* \* \*

*Heading or defined term.*  
*Added to existing law.*  
*Deleted from existing law.*  
*Existing law unaffected by bill.*

1  
2 Bill No. 25-09

3 The County Council of Frederick County, Maryland, finds it necessary and appropriate to  
4 amend the Frederick County Code §§ 1-19-5.310, 1-19-8.402, and 1-19-8.403, and establish § 1-  
5 19-10.1100 to establish a Critical Digital Infrastructure Overlay Zone for the purpose of directing  
6 Critical Digital Infrastructure Facilities and Critical Digital Infrastructure Electric Substations to  
7 industrial lands in proximity to data conveyance infrastructure and other industrial uses, while  
8 minimizing impacts to non-compatible uses and allowing for development of industrial lands not  
9 included in the Critical Digital Infrastructure Overlay Zone for other industrial uses.

10 It is the intention of the County, in accordance with § 1-19-10.110(B), that for every acre  
11 of land within the Overlay Zone that is in the agricultural district and approved for a rezoning to  
12 Limited Industrial (LI) or General Industrial (GI), five acres of nonpreserved agricultural land  
13 shall be preserved at the applicant's expense by providing the necessary funding through a  
14 Community Benefit Agreement negotiated with the County Executive to secure this preservation,  
15 with all funds dedicated to the Frederick County Agricultural Preservation Fund.

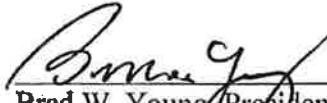

16 NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF  
17 FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby,  
18 amended as shown on the attached Exhibit 1.

19 AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF FREDERICK  
20 COUNTY that the provisions of this bill shall apply only to Critical Digital Infrastructure Facilities  
21 applications and Critical Digital Infrastructure Electric Substation applications submitted on or  
22 after the effective date of this bill.

23

24

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Brad W. Young, President  
County Council of Frederick County,   
Maryland

Underlining indicates entirely new matter added to existing law.  
[Single boldface brackets] indicates matter deleted from existing law.  
\*\*\* - indicates existing law unaffected by bill  
Double underlining boldface indicates matter added by Amendment.  
[[Double bracket]] boldface and strikethrough indicates matter deleted by Amendment  
Bill No. 25-09

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**§ 1-19-5.310. USE TABLE.**

(A) *Permitted uses and required development review.*

P Principal permitted use subject to design regulations

PS Principal permitted use subject to site development plan approval. See §§ 1-19-2.160, and 1-19-3.300 through 1-19-3.300.4

E Principal permitted use as a special exception with site development plan approval. See §§ 1-19-8.320 and following

T Permitted as temporary use as a special exception. See § 1-19-8.300

X Permitted as temporary use only. See § 1-19-8.700

SW Solid Waste Floating Zone

CDI-OZ Principal permitted use subject to site development plan approval in the Critical Digital Infrastructure Overlay Zone

A blank indicates that the use is not permitted under any situation

\*\*\*

***Industrial Uses***

<b>Uses</b>	<b>RC</b>	<b>A</b>	<b>R1</b>	<b>R 3</b>	<b>R 5</b>	<b>R 8</b>	<b>R 12</b>	<b>R1 6</b>	<b>V C</b>	<b>M X</b>	<b>GC</b>	<b>OR I</b>	<b>LI</b>	<b>GI</b>
Cannabis growing facility												PS	PS	PS
Cannabis processing facility												PS	PS	PS

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Bill No. 25-09

Limited manufacturing and assembly use												PS	PS	PS
General manufacturing														PS
Critical Digital Infrastructure Facility													<del>[[PS]]</del> <u>CDI-</u> <u>OZ</u>	<del>[[PS]]</del> <u>CDI-</u> <u>OZ</u>
Critical Digital Infrastructure Electric Substation													<del>[[PS]]</del> <u>CDI-</u> <u>OZ</u>	<del>[[PS]]</del> <u>CDI-</u> <u>OZ</u>
Nongovernmental Utility	E	E	E	E	E	E	E	E	E		PS		PS	PS
Nongovernmental electric substation													E	E

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**§ 1-19-8.402. CRITICAL DIGITAL INFRASTRUCTURE FACILITIES**

The following provisions apply to critical digital infrastructure facilities.

(A) Purpose and intent.

(1) The Critical Digital Infrastructure use is established to provide a location for facilities consisting of one or more buildings used primarily for the storage, management, processing, and transmission of digital data, which houses computer and/or network equipment, systems, servers, appliances, and other associated components related to digital data operations. ~~[The siting of these facilities is dependent upon several~~

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Bill No. 25-09

1 factors, including proximity to sufficient electrical power and data conveyance  
2 infrastructure.]

3  
4 (B) Size and location.

5 (1) Critical Digital Infrastructure use may be established only where:

6  
7 (a) The tract of land where the Critical Digital Infrastructure use is proposed has a  
8 zoning designation of Limited Industrial (LI) or General Industrial (GI);

9  
10 ~~[(b) The tract of land where the Critical Digital Infrastructure use is proposed is within  
11 a Community Growth Area, as designated on the Comprehensive Plan Land Use map;]~~

12  
13 ~~[(e)b] [The tract of land where the Critical Digital Infrastructure use is proposed is  
14 located within 2 miles of existing 69 KV or greater high-voltage electrical  
15 transmission lines;] The tract of land where the Critical Digital Infrastructure use is  
16 proposed is within the Critical Digital Infrastructure Overlay Zone (CDI-OZ); and~~

17  
18 ~~[(d) The tract of land where the Critical Digital Infrastructure use is proposed may not  
19 abut land that is zoned residential or is designated residential on the Comprehensive  
20 Plan Land Use map; and]~~

21  
22 ~~[(e) c] [Notwithstanding subsection (d),]~~ Critical Digital Infrastructure may only be  
23 established on a tract of land that abuts land that is zoned Residential or is designated  
24 Residential on the Comprehensive Plan Land Use map ~~[so long as]~~ if the front, side,  
25 and rear yard setbacks set forth in section 1-19-6.100 for a Critical Digital  
26 Infrastructure facility are increased to ~~[200]~~500 feet from any property line abutting  
27 such Residentially zoned or Designated land.

28  
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Bill No. 25-09

1 (2) The tract of land proposed to be utilized for a Critical Digital Infrastructure use may  
2 not be located within a Priority Preservation Area (PPA), a Rural Legacy Area (RLA),  
3 or a Treasured Landscape Management Area.

4  
5 (3) The tract of land proposed to be utilized for a Critical Digital Infrastructure use may  
6 not have a designation of No Planned Service (NPS) in the Frederick County Water  
7 and Sewerage Plan.

8  
9 (4) Additional size and location criteria - Applicants must demonstrate ~~[the following]~~  
10 that:

11  
12 (a) ~~[The applicant must demonstrate that]~~ the visual impact of the project on the  
13 viewshed, surrounding properties, public roadways, including roadways with  
14 rustic, scenic, or historic designation, and historic sites will be avoided or  
15 minimized to the maximum extent practicable;~~;~~

16  
17 (b) ~~[The applicant must demonstrate that]~~ schools, college and universities, daycare  
18 centers, health care facilities, houses of worship, residences, and other non-  
19 industrial uses in the vicinity have been identified and negative impacts to these  
20 uses will be avoided or minimized to the maximum extent practicable;~~;~~

21  
22 (c) ~~[The applicant must demonstrate that]~~ fragile ecosystems and watersheds in the  
23 vicinity have been identified, and negative impacts will be avoided or minimized  
24 to the maximum extent practicable;~~;~~

25  
26 (d) ~~[The applicant must demonstrate that]~~ negative impacts to local, state, and federal  
27 recreational amenities and private parks, as defined in §1-19-11.100, will be  
28 avoided or minimized to the maximum extent practicable;~~;~~ and

29  
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Bill No. 25-09

1 (e) ~~[The applicant must demonstrate that]~~ the siting of the proposed use(s) will not  
2 have a negative impact that disproportionately affects ~~[negatively impact]~~  
3 overburdened communities or underserved communities as those terms are  
4 defined in Md. Code Ann., Environmental Article, § 1-701.

5  
6 \*\*\*

7 **§ 1-19-8.403. CRITICAL DIGITAL INFRASTRUCTURE ELECTRIC SUBSTATION.**

8  
9 The following provisions apply to critical digital infrastructure electric substations:

10  
11 (A) Size and location.

12  
13 (1) Critical Digital Infrastructure Electric Substation use may be established only where:

14 (a) The tract of land where the Critical Digital Infrastructure Electric Substation is  
15 proposed has a zoning designation of Limited Industrial (LI) or General Industrial  
16 (GI); and

17 ~~[(b) The tract of land where the Critical Digital Infrastructure Electric Substation use~~  
18 ~~is proposed is within a Community Growth Area, as designated on the Comprehensive~~  
19 ~~Plan Land Use map; and]~~

20 ~~[(e)b] [The tract of land where the Critical Digital Infrastructure use is proposed is~~  
21 ~~located within 2 miles of existing 69 KV or greater high-voltage electrical~~  
22 ~~transmission lines;] The tract of land where the Critical Digital Infrastructure use is  
23 proposed is within the Critical Digital Infrastructure Overlay Zone (CDI-OZ);~~

24  
25 (2) The tract of land proposed to be utilized for a Critical Digital Infrastructure Electric  
26 Substation use may not be located within a Priority Preservation Area (PPA), a Rural  
27 Legacy Area (RLA), or a Treasured Landscape Management Area.

28 ~~[(3) The tract of land proposed to be utilized for a Critical Digital Infrastructure Electric~~  
29 ~~Substation use may not have a designation of No-Planned Service (NPS) in the Water~~  
30 ~~and Sewerage Plan.]~~

Underlining indicates entirely new matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

\*\*\* - indicates existing law unaffected by bill

Double underlining boldface indicates matter added by Amendment.

[[Double bracket]] boldface and strikethrough indicates matter deleted by Amendment

Bill No. 25-09

\*\*\*

1  
2  
3  
4  
5  
6  
7 **DIVISION 11. Critical Digital Infrastructure Overlay Zone**

8  
9 **§ 1-19-10.1100. Critical Digital Infrastructure Overlay Zone (CDI-OZ).**

10  
11 (A) Purpose and Intent.

12  
13 The Critical Digital Infrastructure Overlay Zone is created for the purpose of directing  
14 Critical Digital Infrastructure Facilities and Critical Digital Infrastructure Electric  
15 Substations to industrial lands in proximity to data conveyance infrastructure and other  
16 industrial uses, while minimizing impacts to non-compatible uses and allowing for  
17 development of industrial lands not included in the Critical Digital Infrastructure  
18 Overlay Zone for other industrial uses.

19  
20 (B) Establishment of Critical Digital Infrastructure Overlay Zone.

21  
22 (1) A Critical Digital Infrastructure Overlay Zone may be created by the County Council,  
23 with the boundaries established by ordinance and identified on the Zoning Map.

24  
25 A Critical Digital Infrastructure Overlay Zone shall be established by the County Council  
26 only on lands with a comprehensive plan land use designation of Limited Industrial (LI)  
27 or General Industrial (GI) uses. **THE OVERLAY MAY BE**

28 **ESTABLISHED ON LOTS OR PARCELS OF LAND THAT ARE**

29 **DESIGNATED LI OR GI AND WHICH INCLUDE PORTIONS**

30 **DESIGNATED NATURAL RESOURCE (NR), PROVIDED THAT NR LAND**

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Bill No. 25-09

1 WILL NOT BE INCLUDED FOR ANY DENSITY CALCULATION AND NO  
2 ALLOWABLE OVERLAY USES WILL BE PERMITTED ON THE NR  
3 LAND.

4 (2)

5  
6 (3) In establishing the area of the Critical Digital Infrastructure Overlay Zone, the County  
7 Council ~~[[may]]~~ SHALL consider proximity to schools, colleges and universities,  
8 daycare centers, healthcare facilities, and residential uses.

9  
10 (4) The Critical Digital Infrastructure Overlay Zone, as approved by the County Council,  
11 shall include less than 1% of the total land area of the County.

12  
13 (5) Development of Critical Digital Infrastructure Facilities and Critical Digital  
14 Infrastructure Electric Substations in the Critical Digital Infrastructure Overlay Zone  
15 shall comply with § 1-19-8.402. CRITICAL DIGITAL INFRASTRUCTURE  
16 FACILITIES and § 1-19-8.403. CRITICAL DIGITAL INFRASTRUCTURE  
17 ELECTRIC SUBSTATIONS.

18  
19 (6) (a) Individual zoning map amendments for properties located within the Critical  
20 Digital Infrastructure Overlay Zone shall be subject to the approval criteria in [[§]]§  
21 1-19-3.110.4 ~~[(A) but shall not be subject to the additional criteria listed under~~  
22 §§ 1-19-3.110.4(B)];

23  
24 (b) In the event that the County Council approves removal of a property within the  
25 CDI-OZ from the Rural Legacy Area, an individual zoning map amendment  
26 application shall not be accepted or processed until final State approval of the revised  
27 Rural Legacy Area map is received.

28  
29 (C) Principal Permitted Uses.  
30

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Bill No. 25-09



C-10-CV-26-000326

E-FILED; Frederick Circuit Court

Docket: 4/13/2026 5:34 PM; Submission: 4/13/2026 5:34 PM

Envelope: 25999033

# **EXHIBIT B**

**THE EFFECTIVE DATE OF THIS ORDINANCE IS JANUARY 20, 2026**

**ORDINANCE NO. 26-01-001**

**ORDINANCE OF THE COUNTY COUNCIL OF  
FREDERICK COUNTY, MARYLAND**

**RE: Comprehensive Zoning for the Critical Digital Infrastructure Overlay Zone – An  
Element of the Livable Frederick Comprehensive Plan**

**PREAMBLE**

WHEREAS, in conjunction with the Frederick County Planning Commission's development of the Critical Digital Infrastructure Overlay Zone – An Element of the Livable Frederick Comprehensive Plan (Plan), the Planning Commission also engaged in a comprehensive review of the zoning and land use designations of the properties within the Critical Digital Infrastructure Overlay Zone Planning Area (Planning Area); and

WHEREAS, Planning Department Staff and County property owners requested changes to zoning and land use designations of numerous properties within the Planning Area; and

WHEREAS, The Frederick County Planning Commission also recommended certain zoning and land use designation changes when it certified the Critical Digital Infrastructure Overlay Zone – An Element of the Livable Frederick Comprehensive Plan on November 4, 2025; and

WHEREAS, after providing the required public notice, the County Council conducted a public hearing on December 16 and 17, 2025, on the proposed Plan; and

WHEREAS, after providing the required public notice, the County Council conducted a public hearing on December 16 and 17, 2025, concerning the proposed land use and rezoning designation changes, and overlay application for various properties within the Planning Area; and

WHEREAS, The County Council considered all of the recommendations of the Frederick County Planning Commission, the Planning Staff, public comments received as part of the public hearings of the Planning Commission and the County Council, written correspondence submitted concerning the Plan and the zoning and land use designation from adjoining planning jurisdictions, municipalities, affected State and local agencies and interested persons; and

WHEREAS, the County Council conducted its review in sessions open to the public; and

WHEREAS, after the various public hearings, and consideration of all comments and correspondence received on this matter, the County Council approved changes to the Planning Commission's recommended Critical Digital Infrastructure Overlay Zone – An Element of the Livable Frederick Comprehensive Plan and to the recommended land use and zoning designations; and

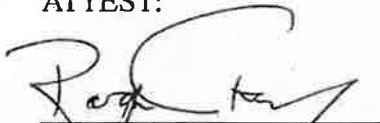
WHEREAS, the County Council has determined that the zoning and land use designation changes set forth in the attached Exhibit A are consistent with the Plan and are designed to create predictability for the community and the data center industry, and support other industries with industrial land needs, to best promote health, safety order, convenience, prosperity, and general welfare.

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.

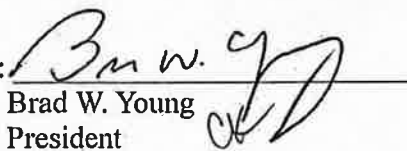
AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on January 20<sup>th</sup>, 2026.

The undersigned hereby certifies that this Ordinance was approved and adopted on the 20<sup>th</sup> day of January, 2026.

ATTEST:

  
Ragen Cherney  
Council Chief of Staff


FREDERICK COUNTY COUNCIL

By:   
Brad W. Young  
President

The motion to adopt the zoning changes outlined in Exhibit A was approved by a vote of 5-2.



**Council Adopted  
Critical Data  
Infrastructure (CDI)  
Overlay Zone**

 Council Adopted CDI Overlay Zone











CDI Acres	CDI % of County
2,614.9	0.61

Projection: NAD 1983 State Plane Maryland FIPS 1900 Feet. While efforts have been made to ensure the accuracy of this map, Frederick County accepts no liability or responsibility for errors, omissions, or positional inaccuracies in the content of this map. Reliance on this map is at the risk of the user. This map is for illustration purposes only and should not be used for surveying, engineering, or site-specific analysis. Printed 1/5/2026





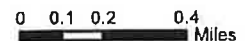
### Council Adopted Zoning

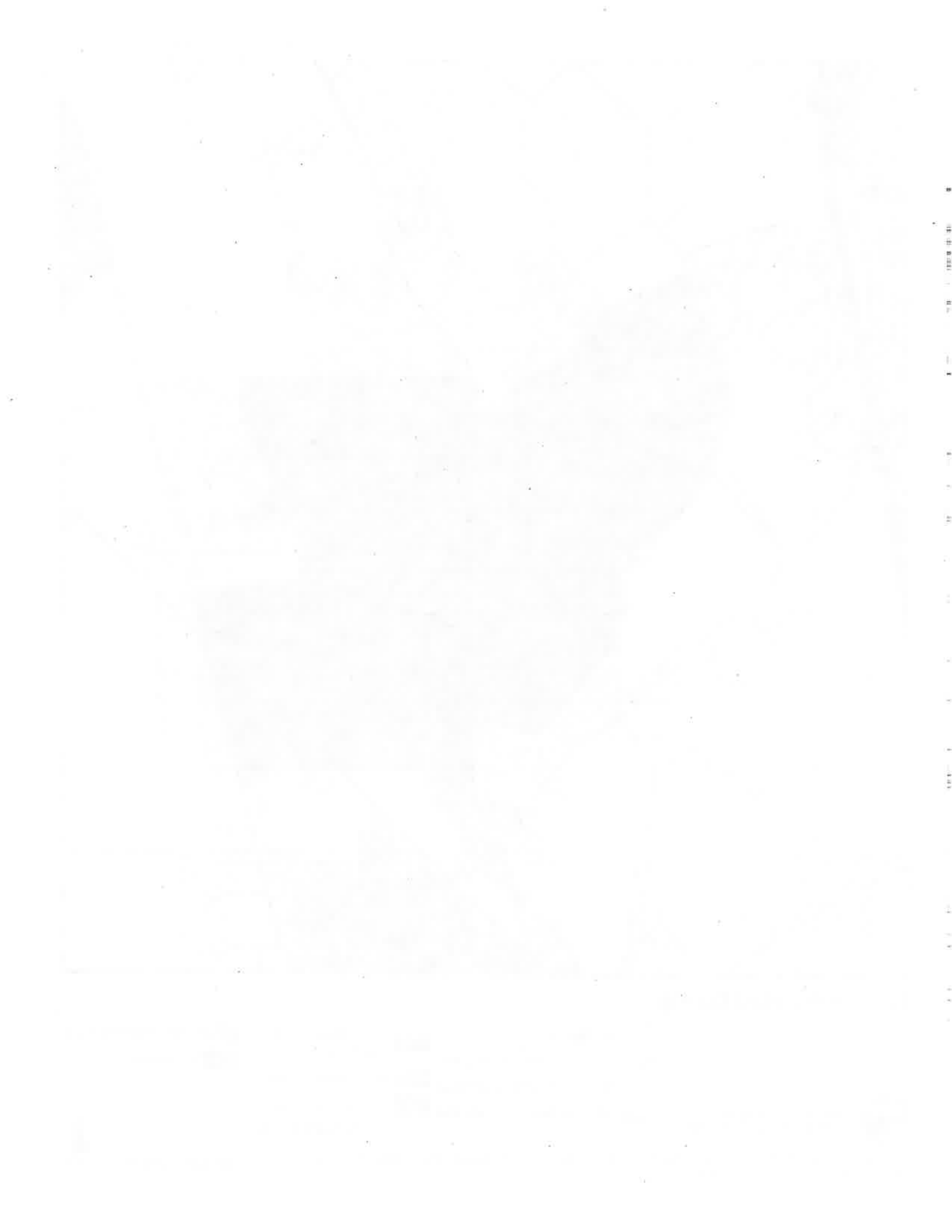
-  A - Agricultural
-  PUD - Planned Unit Development
-  MM - Mineral Mining
-  RC - Resource Conservation
-  VC - Village Center
-  Ie - Institutional
-  R1 - Low Density Residential
-  GI - General Industrial
-  LI - Limited Industrial
-  R3 - Low Density Residential



Frederick County, Maryland  
Division of Planning and Permitting

Projection: NAD 1983 State Plane Maryland FIPS 1800 Feet. While efforts have been made to ensure the accuracy of this map, Frederick County accepts no liability or responsibility for errors, omissions, or positional inaccuracies in the content of this map. Reliance on this map is at the risk of the user. This map is for illustration purposes only and should not be used for surveying, engineering, or site-specific analysis. Printed 1/5/2026





# EXHIBIT C



# Frederick County Board of Elections

8490 Progress Drive, Ste 300, Frederick, Maryland 21701  
FrederickCountyMD.gov/elections

301-600-VOTE (8683)

ElectionBoard@FrederickCountyMD.gov



April 3, 2026

**VIA EMAIL**

Frederick County Data Center Referendum Committee  
Mr. Steve Black  
2313 New Design Road  
Adamstown, MD. 21710

Dear Mr. Black,

The Frederick County Board of Elections has verified all signatures on your petition submission from March 19, 2026. In relation to the Petition for Referendum of Frederick County Council Ordinance 26-01-00, the verification process at the Frederick County Board of Elections confirmed the following:

**Number of signatures processed: 24,053**  
**Number of valid signatures: 21,029**  
**Number of invalid signatures: 3,024**

It has been determined that you have gathered enough valid signatures to exceed the threshold for signatures (signed by 7 percent of the County's qualified voters). That number calculated to be 15,611 as set forth in the Frederick County Charter section 308.

There is a presumption that a petition is sufficient unless there is a finding or determination of a deficiency. Under EL 6-206 (b) --- Unless a determination of deficiency is made under subsection (c) ... the chief election official shall (1) make a determination that the petition, as to matters other than the validity of signatures, is sufficient.

I have reviewed each number under EL 6-206 subsection (c) and there is no deficiency under 1, 2, 3, 4 and 6. However, as the chief election official, based on the advice of legal authority (Board Counsel) I am unable to make a determination that the petition is not authorized by law under EL 6-206 (c) (5) (i). In short, since there is a presumption of sufficiency, unless a determination of a deficiency is made, and I am unable to make a determination of a deficiency, the petition is sufficient for purposes of EL 6-206. The Frederick County Board of Elections will inform the Frederick County Council and the Frederick County Office of Law of the final disposition of the petition.

Sincerely,

*Barbara Wagner*

Barbara Wagner  
Election Director, CERA

CC: Frederick County Board of Elections  
Frederick County Office of Law  
Frederick County Council