

CHAPTER 2: ELECTIONS

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ARTICLE I. IN GENERAL

Section 2-101 Adoption of State Rules and Regulations

The rules and regulations promulgated by the State Election Board which pertain to municipal elections, together with the provisions of the "Georgia Election Code" contained in Title 21 of the Official Code of Georgia Annotated, are hereby adopted as the rules, regulations, and provisions that shall govern the conduct of municipal general and special elections in this Town.

Section 2-102 Authority to Conduct Municipal Elections

The governing authority of any municipality may conduct the election or they may authorize any county within which that municipality wholly or partially lies to conduct any or all elections. In the event a municipality shall by ordinance authorize such county to conduct elections, such municipality may request such county to perform any or all of the functions enumerated in the contract. Such county shall have authority to conduct elections in any and all counties in which any part of such municipality may lie. (See Georgia Election Code, O.C.G.A. § 21-2-1 et. seq.)

Section 2-103 Expenses

Such funds as are necessary for the conduct of elections and for the performance of the duties that are specified by this Chapter shall be budgeted and appropriated annually, and from time to time.

ARTICLE II. REGISTRATION

Section 2-201 Registrars and Deputy Registrars

- 1. Appointment.** Registrars and deputy registrars shall be appointed by the Mayor and Town Council as necessary, and shall serve at the pleasure of same. One such appointee shall be designated as chief registrar, and such person shall serve as the Chief Administrative Officer of the Board of Registrars and shall generally supervise and direct the administration of the affairs of said board. Compensation of the registrars shall be fixed by the governing authority.

All appointments shall be entered on the minutes of the Town Council meeting at which they are made.

The Mayor and Town Council may furnish such employees and facilities as it deems necessary for the operation of the office and the affairs of the registrars.

- 2. Qualifications.** Registrars and deputy registrars shall be able to read, write, and speak the English language. The office of any person who is a registrar, deputy registrar, or member of a board of elections shall be vacated immediately upon such person filing a notice of candidacy for any nomination or office to be voted for at a primary or election or upon such person's giving notice of such person's intent to be a write-in candidate; provided, however, that this ineligibility shall not apply to a chief deputy registrar who is also an elected public officer and who seeks to qualify for reelection to the public office such chief deputy registrar is presently holding. However, nothing contained in this Code section shall preclude a registrar, deputy registrar, or member of a municipal board of elections from qualifying for office, having such officer's name placed on the ballot, or holding office in a political party or body or serving as a presidential elector. No registrar, deputy registrar, or member of a board of elections, while performing the duties of such office, shall engage in political activity on behalf of a candidate, political party or body, or question, including, but not limited to, distributing campaign literature, engaging in any communication that advocates or criticizes a particular candidate, officeholder, or political party or body while on duty, and wearing badges, buttons, or clothing with partisan messages.
- 3. Oath.** Prior to entering upon his duties, each registrar and deputy registrar shall take the following oath before some officer authorized by law to administer oaths under the laws of the state:

"I do solemnly swear that I will faithfully and impartially discharge, to the best of my ability, the duties imposed upon me by law as (deputy) registrar."

- 4. Term of Office.** Persons appointed to the position of registrar or deputy registrar shall serve at the pleasure of the Mayor and Town Council.
- 5. Powers.** The registrars and deputy registrars shall exercise those powers and duties and shall be subject to such regulations as are set forth in the "Georgia Election Code," Title 21 of the O.C.G.A.
- 6. Resignation or Removal.** Any registrar or deputy registrar shall have the right to resign at any time by submitting a resignation to the Mayor and Town Council. The Mayor and Town Council shall have the right at any time to remove one (1) or more of such registrars for cause after notice and hearing. If any registrar resigns or is removed for cause, his duties and authority as such shall terminate immediately. In the event of death, resignation, or removal of a registrar or deputy registrar, the Mayor and Town Council

shall appoint a successor. Each such appointment shall be entered on the minutes of the Town Council meeting at which the appointment is made.

7. Training.

- A.** The election superintendent and at least one (1) registrar shall attend a minimum of twelve (12) hours training biennially as may be selected by the Secretary of State.
- B.** The basis for the minimum requirement of training shall be two (2) calendar years.
- C.** A waiver of the requirement of minimum training, either in whole or in part, may be granted by the Secretary of State, in his/her discretion, upon the presentation of evidence by the election superintendent or registrar that the individual was unable to complete such training due to medical disability, providential cause, or other reason deemed sufficient by the Secretary of State.
- D.** The cost of the training shall be borne by the municipal governing authority from municipal funds.
- E.** The minimum training required under this Section shall not apply to deputy registrars.

Section 2-202 Elector Qualifications

Any person desiring to vote in any municipal, general, or special election must:

- 1.** Register as an elector in the manner prescribed by law;
- 2.** Be a citizen of the State of Georgia and of the United States;
- 3.** Be at least eighteen (18) years of age;
- 4.** Be a resident of this (municipality/county); and
- 5.** Be possessed of all other qualifications prescribed by law:
 - A.** No person who has been convicted of a felony involving moral turpitude may register, remain registered, or vote except upon completion of the sentence.
 - B.** No person who has been judicially determined to be mentally incompetent may register, remain registered, or vote unless the disability has been removed.
 - C.** Any person who possesses the qualifications of an elector except those concerning age shall be permitted to register to vote if such person will acquire such qualifications within six (6) months after the day of registration; provided, however, that such person shall not be permitted to vote in a primary or election until the acquisition of such qualifications.

Section 2-203 Reserved

Section 2-204 Challenge of Registration List

- 1.** Any elector of the municipality may challenge the right of any other elector of the municipality, whose name appears on the list of electors, to vote in an election. Such challenge shall be in writing and specify distinctly the grounds of such challenge. Such challenge may be made at any time prior to the electors, whose right to vote is being challenged, voting at the elector's polling place or, if such elector casts an absentee ballot, prior to the close of the polls on the day of the election.
- 2.** Upon the filing of such challenge, the county board of registrars shall immediately consider such challenge and determine whether probable cause exists to sustain such challenge. If the registrars do not find probable cause, the challenge shall be denied. If the registrars find probable cause, the registrars shall notify the poll officers of the challenged elector's precinct or, if the challenged elector voted by absentee ballot, notify the poll officers at the absentee ballot precinct and, if practical, notify the challenged elector and afford such elector an opportunity to answer.
- 3.** If the challenged elector appears at the polling place to vote, such elector shall be given the opportunity to appear before the registrars and answer the grounds of the challenge.
- 4.** If the challenged elector does not cast an absentee ballot and does not appear at the polling place to vote and if the challenge is based on grounds other than the qualifications of the elector to remain on the list of electors, no further action by the registrars shall be required.
- 5.** If the challenged elector casts an absentee ballot and it is not practical to conduct a hearing prior to the close of the polls and the challenge is based upon grounds other than the qualifications of the elector to remain on the list of electors, the absentee ballot shall be treated as a challenged ballot pursuant to O.C.G.A. § 21-3-291. No further action by the registrars shall be required.

6. If the challenged elector does not cast an absentee ballot and does not appear at the polling place to vote and the challenge is based on the grounds that the elector is not qualified to remain on the list of electors, the board of registrars shall proceed to hear the challenge pursuant to O.C.G.A. § 21-2-229.
7. If the challenged elector casts an absentee ballot and the challenge is based upon grounds that the challenged elector is not qualified to remain on the list of electors, the board of registrars shall proceed to conduct a hearing on the challenge on an expedited basis prior to the certification of the consolidated returns of the election by the election superintendent. The election superintendent shall not certify such consolidated returns until such hearing is complete and the registrars have rendered their decision on the consolidated returns. If the registrars uphold the challenge, the name of the challenged elector shall be removed from the list of electors and the ballot of the challenged elector shall be rejected and not counted and, if necessary, the returns shall be adjusted to remove any votes cast by such elector. The elector making the challenge and the challenged elector may appeal the decision of the registrars in the same manner as provided in subsection (e) of O.C.G.A. § 21-2-229.
8. If the challenged elector appears at the polls to vote and it is practical to conduct a hearing on the challenge prior to the close of the polls, the registrars shall conduct such hearing and determine the merits of the challenge. If the registrars deny the challenge, the elector shall be permitted to vote in the election notwithstanding the fact that the polls may have closed prior to the time the registrars render their decision and the elector can actually vote, provided that the elector proceeds to vote immediately after the decision of the registrars. If the registrars uphold the challenge, the challenged elector shall not be permitted to vote and, if the challenge is based upon the grounds that the elector is not qualified to remain on the list of electors, the challenged elector's name shall be removed from the list of electors.
9. If the challenged elector appears at the polls to vote and it is not practical to conduct a hearing prior to the close of the polls or if the registrars begin a hearing and subsequently find that a decision on the challenge cannot be rendered within a reasonable time, the challenged elector shall be permitted to vote by having the word "Challenged" and the elector's name written across the back of the elector's ballot notwithstanding the fact that the polls may have closed prior to the time the registrars make such a determination, provided that the elector proceeds to vote immediately after such determination of the registrars. In such cases, if the challenge is based upon the grounds that the challenged elector is not qualified to remain on the list of electors, the registrars shall proceed to finish the hearing prior to the certification of the consolidated returns of the election by the election superintendent. If the challenge is based on other grounds, no further action shall be required by the registrars. The election superintendent shall not certify such consolidated returns until such hearing is complete and the registrars have rendered their decision on the challenge. If the registrars deny the challenge, the superintendent shall proceed to certify the consolidated returns. If the registrars uphold the challenge, the name of the challenged elector shall be removed from the list of electors and the ballot of the challenged elector shall be rejected and not counted and, if necessary, the returns shall be adjusted to remove any votes cast by such elector. The elector making the challenge and the challenged elector may appeal the decision of the registrars in the same manner as provided in subsection (e) of O.C.G.A. § 21-2-229.

Section 2-205 Permanency of Registration

Registration of an elector will remain permanent if the elector votes in at least one (1) election every three (3) years. If such person does not vote in at least one (1) general or special election or primary in a three (3) year period and does not specifically request continuation of his registration, then the elector's name will be removed from the registration list and he shall be required to re-register in the manner provided for original registration.

Section 2-206 Absentee Registration

1. Not more than one hundred eighty (180) days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar's office, an application to the board of registrars of the county of the elector's residence for an official ballot of the elector's precinct to be voted at such primary, election, or runoff. In the case of an elector residing temporarily out of the county or a physically disabled elector residing within the county, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law,

brother-in-law, or sister-in-law of the age of eighteen (18) or over. The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot; the name and relationship of the person requesting the ballot if other than the elector. Except in the case of physically disabled electors residing in the county, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out of county address. Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true. If the elector is unable to fill out or sign such elector's own application because of illiteracy or physical disability, the elector shall make such elector's mark, and the person filling in the rest of the application shall sign such person's name below it as a witness; provided, however, that one timely and proper application for an absentee ballot for use in a primary shall be sufficient to require the mailing of the absentee ballot to an eligible absentee elector who lives outside the county in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen. Any elector meeting criteria of advanced age or disability specified by rule or regulation of the Secretary of State may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. Notwithstanding the foregoing, a separate and distinct application for an absentee ballot shall be required of the presidential preference primary held pursuant to Article 5 of O.C.G.A. § 21-2-381 and for any special election or special primary.

Section 2-207 Elector Identification

- 1.** Each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:
 - A.** A valid Georgia driver's license;
 - B.** A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United State authorized by law to issue personal identification;
 - C.** A valid United States passport;
 - D.** A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state.
 - E.** A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;
 - F.** A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;
 - G.** A valid Georgia license to carry a pistol or revolver;
 - H.** A valid pilot's licensed issued by the Federal Aviation Administration or other authorized agency of the United States;
 - I.** A valid United States military identification card;
 - J.** A certified copy of the elector's birth certificate;
 - K.** A valid social security card;
 - L.** Certified naturalization documentation; or
 - M.** A certified copy of court records showing adoption, name, or sex change.
- 2.** If an elector is unable to produce any of the items of identification listed above, he or she shall sign a statement under oath in a form approved by the Secretary of State, separate and distinct from the elector's voter certificate, swearing or affirming that he or she is the person identified on the elector's voter certificate. Such person shall be allowed to vote without undue delay. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.

ARTICLE III. CANDIDATES

Section 2-301 Notice of Candidacy; Name on Ballot

1. **Filing.** Each candidate desiring to have his name placed on the ballot for an office to be filled in a municipal, general, or special election shall file personally, or by his agent, notice of his candidacy in the manner and accompanied by the documents and information required below.
 - A. Each candidate or a designee shall file a notice of candidacy in the office of the municipal superintendent of such candidate's municipality during the municipality's qualifying period. Each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three (3) days and no more than five (5) days. The days of the qualifying period shall be consecutive days. Qualifying periods shall comply with the following:
 - (1) In the case of a general election held in an odd-numbered year, the municipal qualifying period shall commence no earlier than 8:30 a.m. on the second Monday in September immediately preceding the general election and shall end no later than 4:30 p.m. on the following Friday.
 - (2) In the case of a general election held in an even-numbered year, the municipal qualifying period shall commence no earlier than 8:30 a.m. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 p.m. on the following Friday; and
 - (3) In the case of a special election, the municipal qualifying period shall commence no earlier than the date of the call and shall end no later than twenty-five (25) days prior to the election.The hours of qualifying each day shall be from 8:30 a.m. until 4:30 p.m. with one (1) hour allowed for the lunch break; provided, however that municipalities which have normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for each such municipality. Except in the case of a special election, notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two weeks prior to the opening of the qualifying period..
2. **Designation of Office Sought.** In the event a candidate seeks one (1) of two (2) or more public offices of the Town, each having the same title and to be filled at the same election by the vote of the same electors, Charter or ordinance provisions shall govern whether such candidate shall designate the specific office he is seeking. If required to designate the specific office, the candidate shall name his incumbent or give other appropriate designation. Such designation shall be entered on the ballot and ballot labels in such manner that in the ensuing primary or election such candidate shall only oppose the other candidate or candidates, if any, designating the same specific office.

Section 2-302 Notice of Candidacy, Write-in Vote

1. No person elected on a write-in-vote shall be eligible to hold office unless notice of his or her intention of candidacy was filed and published no earlier than January 1 and no later than the Tuesday after the first Monday in September prior to the election for county, state, and federal elections; no later than seven (7) days after the close of the municipal qualifying period for municipal elections in the case of a general election; no earlier than January 1 and no later than the Tuesday after the first Monday in June in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary; no later than the third Monday in July in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives; or at least twenty (20) or more days prior to a special election by the person to be a write-in candidate or by some other person or group of persons qualified to vote in the subject election, as follows:
 - A. **Reserved.**
 - B. **Reserved.**
 - C. In a municipal general or special election, notice shall be filed with the superintendent and published in the official gazette of the municipality holding the election.

2. In addition to the requirements contained in subsection 1 of this Section, the person or persons giving notice of intention of candidacy for a write-in candidate shall also file, with the appropriate official specified in paragraph A, B or C of subsection 1 of this Section, a copy of the notice as published with an affidavit stating that the notice has been published and including the name of the newspaper and the date of publication, not later than the fifth day after the deadline for filing and publishing such notice. The affidavit may be made by the person giving notice of intention of candidacy or by the publisher of the newspaper in which the notice was published or by an employee of the newspaper designated by the publisher.
3. No person shall be eligible as a write-in candidate in a special or general primary, a special or general primary runoff, or in a special or general election runoff.
4. No person shall be eligible as a write-in candidate in a general or special election if such person was a candidate for nomination or election to the same office in the immediately preceding primary.

The Secretary of State or appropriate municipal official shall certify to the election superintendent of each county affected at least ten (10) days prior to the general or special election the names of all persons who have filed notices of intention to be write-in candidates with the Secretary of State or appropriate municipal official.

Section 2-303 Qualifying Fees

1. No later than February 1 of any year in which a general primary, nonpartisan primary, or general election is to be held, and at least thirty-five (35) days prior to the special primary or election in the case of a special primary or special election, the Maxeys City Council shall fix and publish a qualifying fee for each municipal office to be filled in the upcoming primary or election. Such fee shall be three percent (3%) of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law if a salaried office. If not a salaried office, a reasonable fee shall be set by the governing authority of Maxeys, such fee not to exceed three percent (3%) of the income derived from such office by the person holding the office for the preceding year or more than thirty-five dollars (\$35.00) for a municipal office.
2. Qualification fees paid to the superintendent of a municipality:
 - A. If the person qualified as a candidate of a political office in Maxeys, fifty percent (50%) shall be transmitted to the state executive committee of the appropriate political body and fifty percent (50%) shall be retained by the Superintendent of Maxeys; and
 - B. If the person qualifies as an independent or nonpartisan candidate, the Election Superintendent of Maxeys shall retain the entire amount of the fees.

Such fees shall be transmitted as soon as practicable by the superintendent of the governing authority of the municipality, to be applied toward the cost of holding the election.

Section 2-304 Campaign Financing Disclosure

Every elected municipal official shall file with the municipal clerk of the municipality of election or, if there is no clerk, with the chief executive officer of such municipality, not before the first day of January nor later than July 1 of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year. Each person who qualifies as a candidate for election as a public officer shall file with the municipal clerk of the municipality of election or, if there is no clerk, with the chief executive officer of such municipality, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

A public officer shall not, however, be required to file such a financial disclosure statement for the preceding calendar year in a year in which there occurs qualifying for election to succeed such public officer, if such public officer does not qualify for nomination for election to succeed himself or herself or for election to any other public office subject to this chapter. For purposes of this subsection, a public officer shall not be deemed to hold office in a year in which the public officer holds office for less than fifteen (15) days.

ARTICLE IV. VOTING

Section 2-401 Election Officials

1. **Appointment.** The following election officials shall be appointed by the Mayor and Town Council and shall receive such compensation as is provided by same:
 - A. Municipal Election Superintendent
 - B. Chief Manager
 - C. Two (2) Assistant Managers
 - D. Clerks, as necessary
2. **Qualifications and Powers.** The Municipal Election Superintendent and all poll officers shall meet such qualifications and exercise all such powers and duties as are provided in Title 21 of the O.C.G.A.

Section 2-402 Reserved

Section 2-403 Polling Places

The polling place within the precinct shall be the Community Center.

Section 2-404 Date of Election

All general municipal elections to fill municipal offices shall be held on the Tuesday next following the first Monday in November and on such day quadrennially thereafter.

Section 2-405 Reserved

Section 2-406 Absentee Ballots

Absentee ballots shall be used in all municipal elections, and such use shall be governed by the provisions of Chapter 21 of the O.C.G.A.

Section 2-407 Vote Required for Election

Candidates for nomination for any public municipal office in any primary, and candidates for any public municipal office in any election shall be nominated or elected by a plurality of the votes cast to fill such nomination or public office. Plurality shall mean the receiving by one candidate alone of the highest number of votes cast.

Where the municipal charter does not provide for nomination or election by plurality and no candidate receives a majority of the votes cast, a run-off primary or election shall be held between the candidates receiving the two highest numbers of votes. In the case of a general primary or general election, such runoff shall be held on the twenty-first day after the day of holding the first primary or election, unless such run-off date is postponed by court order. In the case of a special primary or special election, such runoff shall be held not earlier than the fourteenth day and not later than the twenty-first day after the holding of the first special primary or special election, on a date specified by ordinance or resolution, unless such run-off date is postponed by court order.

Section 2-408 Contested Elections

1. **Petition of Contest.** Any person wishing to contest the results of a primary or election shall file a petition with the Town Clerk within five (5) days after the results of the election are certified to the Mayor and Town Council, which petition shall set forth in writing one (1) or more of the following grounds:
 - A. Malconduct, fraud or irregularity by any election official sufficient to change or place in doubt the results;
 - B. When the defendant is ineligible for the nomination or office in dispute;
 - C. Illegal votes received, or legal votes rejected, sufficient to change or place in doubt the result;

- D. An error in counting the votes or in declaring the result of an election, if such error would change the result; or
 - E. Any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.
2. **Notice and Hearing.** Upon the filing of the contest petition, a hearing shall be set before the Mayor and Town Council and written notice stating the time and place of the hearing and containing a copy of the contest petition shall be given to all affected candidates. The hearing will take place not less than fifteen (15) nor more than thirty (30) days after service of the notice upon the affected candidates, and shall be conducted in an informal manner.
 3. **Determination by Mayor and Town Council.** The Mayor and Town Council shall examine the qualifications of electors concerning their right to vote, order a recount of ballots, examine the registration lists, and perform such acts and conduct such examination as may be deemed necessary to determine the validity of a contest of an election, except that any member of the governing authority included in the contest shall disqualify himself from judging the contest.
 4. **Appeal.** The final determination of the Mayor and Town Council may be appealed to the Oglethorpe County Superior Court in the manner of appeal from a court of probate, except that such appeal shall be made within ten (10) days after determination of the contest by the Mayor and Town Council.