

228

No. _____ - 2017

REPORT

PETITION

The Committee on

of

Legislative Affairs Committee

Anna M. Farrell, City Clerk

to which was referred this petition would recommend that the petition be granted, be given leave to withdraw.

to designate by vote of the City Council no later than September 19, 2017 a new Ward 5 polling location. The new polling location would be in effect after the September 26, 2017 preliminary.

Sean P. Kim

In City Council

In City Council

September 5, 2017

September 19, 2017

Referred to Committee on

Report Read and Accepted

Legislative Affairs Committee

Petition granted by unanimous vote. The new polling place will be at Saima Park located at 67 Scott Road in Fitchburg, MA.

Anna M. Farrell Clerk

10 members present. Board consists of 11 members. Anna M. Farrell Clerk

SEP 19 2017
12:53

TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

Designate by vote of the City Council no later than September 19, 2017 a new Ward 5 polling location.

The new polling location would be in effect after the September 26, 2017 preliminary.



Anna M. Farrell, City Clerk

2017 AUG 29 PM 3:50
FITCHBURG CITY CLERK

Farrell, Anna

From: Farrell, Anna
Sent: Wednesday, August 30, 2017 1:36 PM
To: Amy Green; Angelo Bisol; David Clark (fitchburgsdaveclark@gmail.com); Dean A. Tran (dean@deantran.com); Jeffrey A. Bean; Jody Joseph (jodyndebj@aol.com); Joel Kaddy (joelkaddy@gmail.com); Marcus DiNatale; Michael Kushmerek (michael.kushmerek@yahoo.com); Paul Beauchemin; Tom Donnelly (todonnelly@yahoo.com)
Cc: DiNatale, Stephen; Tourigny, AJ
Subject: Update on Ward 5 polling location

Hello all,

Please note the following update pertaining to the petition I will be filing for your September 5th City Council meeting to change the Ward 5 polling location:

Masonic Temple – 16 Thorndike Street

I have viewed the facility and the interior would meet our needs for elections. It has ample parking and I am told it is kept plowed in the event of snow. A representative from State Elections Division will be here on Tuesday to review it inside and out for compliance with handicapped accessibility requirements. There will be a rental fee – exact amount not determined but he said it would be around \$250-\$300 per election.

Saima Park – 61 Scott Road

I have viewed the facility and the interior would meet our needs for elections. It has ample parking and I am told it is kept plowed in the event of snow. A representative from State Elections Division will be here on Tuesday to review it inside and out for compliance with handicapped accessibility requirements. The rental fee would be \$800 per election.

Water Dept conference room

I have viewed the facility and have determined that it would not be conducive to our needs for elections. The voter access to the conference room would be through either the hallway containing all the administrative offices or a hallway that enters in to the treatment facility. Either one would be too disruptive, in my opinion.

FSU Activity Center – North Street

Mayor DiNatale spoke with Jay Bry who said the facility would not be available because it is used for classes all day.

McKay Campus School

Mayor DiNatale spoke with Jay Bry who was not receptive to the idea. He has the same concerns (security, parking and disruption of student activities) that our public school administration have.

Civic Center ice arena lobby

Jay Bry did offer this location to Mayor DiNatale. However, as previously discussed, there is no heat in the lobby and I feel it is unsuitable to have election workers sitting there for 16 hours without heat.

Previously noted facilities ruled out as described in my email from yesterday:
Bank of America Building – not in an adjacent precinct and therefore not allowed
Eastwood Club – Tuesday night dart leagues – will not close the bar and therefore not allowed

It seems that, as of this writing, there are two locations that are viable choices – Saima Park and Masonic Temple. The City Council makes the final decision by a majority vote.

I may have an answer from the State before your meeting Tuesday night regarding compliance with handicapped accessibility. If so, I will present this information to you and you could, if you choose to do so, discuss the matter and take a vote under suspension Tuesday night.

Otherwise, I would request that my petition be referred to the Legislative Affairs Committee and that the committee meet by September 19th. I need a vote by the full council no later than September 19th. After your final full council vote, I must notify the State at least 20 days prior to the election as well as every Ward 5 voter by mail. The change to the polling location would take effect for the November election. The September 26th Preliminary will be held at MART.

Thank you

- Anna

Anna M. Farrell
City Clerk
166 Boulder Drive
Fitchburg MA 01420
Phone - 978-829-1820
Fax – 978-829-1964
afarrell@fitchburgma.gov
www.fitchburgma.gov



CITY OF FITCHBURG

OFFICE OF THE CITY CLERK

166 Boulder Drive
Fitchburg MA 01420

Anna M. Farrell, City Clerk
(978) 829-1820
www.fitchburgma.gov

September 7, 2017

Dear Councillors:

This is the summary of findings in the search for a new Ward 5 polling location. As you are aware I learned last week that, after September 26, 2017, the MART Intermodal Center at 100 Main Street will no longer be able to provide us with space for our polling location. They will be using the space for their call center.

I. LOCATIONS RULED OUT

Over the past week, I have investigated the following as possible polling locations. They have been ruled out for the reasons listed.

Water Dept conference room

I have viewed the facility and determined that it would not be conducive to our needs for elections. The voter access to the conference room would be through either the hallway containing all the administrative offices or a hallway that enters in to the treatment facility. Either one would be too disruptive.

FSU Activity Center – North Street

Mayor DiNatale spoke with Jay Bry who said the facility would not be available because it is used for classes all day.

McKay Campus School

Mayor DiNatale spoke with Jay Bry who was not receptive to the idea. He has the same concerns (security, parking and disruption of student activities) that our public school administration have.

Civic Center ice arena lobby

Jay Bry did offer this location to Mayor DiNatale. However, as previously discussed, there is no heat in the lobby and I feel it is unsuitable to have election workers sitting there for 16 hours without heat.

Bank of America Building

Not in an adjacent precinct and therefore not allowed.

Eastwood Club

Tuesday night dart leagues – cannot close the bar and therefore not allowed.

II. LOCATIONS DETERMINED TO QUALIFY FOR FURTHER CONSIDERATION

I investigated the following locations last week and determined that they warranted further consideration. On Tuesday September 5th, a Project Manager from the State Elections Division conducted a site visit with me to each location to determine if the locations comply with the regulations governing accessibility of polling places. I have attached her complete report. A summary of her findings along with my comments are as follows:

Messiah Lutheran Church, 750 Rindge Road

I viewed the basement function hall and determined that it was a viable space for holding elections. It is in Ward 4A (a precinct adjacent to both 5A and 5B and therefore allowed), it is a large room with plenty of lighting, both overhead and natural, plenty of electrical outlets, it has a separate kitchen area for food, there are plenty of tables and chairs offered for our use and there is a large parking lot.

Unfortunately, at the site visit, State Elections Division determined that the site access does not meet regulation requirements: the access path of travel does not have continuous common surfaces and the walkway leading to the entrance door has a slope exceeding the maximum allowable and is missing a pair of handrails.

The slope of the walkway is not something that can be remedied due to the topography of the land and therefore this location cannot be considered.

Charles W. Moore Lodge Masonic Temple, 16 Thorndike Street

I originally viewed and determined that the basement function hall was a viable space for holding elections. It is in Ward 5A, it is a very large room with plenty of overhead lighting and electrical outlets as well as a kitchen for the poll workers to eat. There is a large parking lot. The access to the basement room is via a "chair-master" type device from the first floor main entrance. Unfortunately, at the site visit, State Elections Division stated that this device is not compliant with polling place accessibility regulations.

Upon hearing that determination, the Lodge representative who was with us stated that he would ask the Board if we could use the actual lodge meeting/ceremony room on the first floor, which they do not ordinarily rent out. He stated that he would let me know before September 19th if they would allow us to use the room.

We proceeded to enter the lodge meeting/ceremony room and found the following: the room is ornate with finely upholstered furniture and wall to wall light blue carpeting, the overhead lighting is purposely dim, there are no windows therefore no natural lighting, there is no separate area where food could be placed for the poll workers, the entrance door threshold exceeds the ½ "maximum allowable height, the outer and inner entrance doors from the parking lot do not have lever handles.

If the Lodge allows us to use the room and if the City Council chooses this location it would require:

1. Additional table and floor lighting to be transported in for all poll worker tables, voting booths and the general voting area;
2. Floor mats along the entire voter path from entrance to check-in to the voting booths to protect the carpeting from heavy foot traffic in inclement weather;
3. Floor mats to protect the carpeting under the food tables where catered hot food would be placed and consumed;
4. A door threshold ramp;
5. Four lever door handles to go on both sides of the outer and inner entrance doors from the parking lot;
6. Placement of temporary accessible parking signs in the parking lot.

Saima Park Function Hall, 61 Scott Road

I viewed the function hall and determined it was a viable space for holding elections. It is in Ward 5A, it is a large room with plenty of overhead lighting and windows providing natural light, it has a large separate kitchen and eating area for the poll workers and plenty of parking.

If the City Council chooses this location it would require:

1. One temporary portable ramp placed at the 4" curb to allow for wheelchairs to travel up the curb from the parking lot;
2. Placement of temporary accessible parking signs in the parking lot.

Although the City Council has the final decision-making authority and must vote to designate a polling location, my recommendation would be Saima Park Function Hall. Out of the two remaining options, the design is most conducive to typical poll activity, requires the fewest and easiest set-up and break-down tasks and the least costly purchases to make it compliant with the State accessibility requirements for polling places.

I will attend the committee meeting on September 19, 2017 in order to be available to answer any questions and participate in further discussion.

Very truly yours,



Anna M. Farrell, City Clerk

Attachments



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Elections Division

6 September 2017

Anna M. Farrell
City Clerk
166 Boulder Drive
Fitchburg, MA 01420

Dear Anna,

I am writing to follow-up the polling location survey we conducted yesterday, Tuesday, September 5, 2017. Specifically, we surveyed three proposed polling locations; Charles W. Moore Lodge located at 16 Thorndike Street, the Messiah Lutheran Church located at 750 Rindge Road, and the Function Hall at Saima Park located at 61 Scott Road, to ensure compliance with the Polling Place Accessibility for Elderly and Handicapped Voters regulations. 950 C.M.R. § 51.00, *et seq.*

During the survey, we reviewed a number of issues, including site access, parking, entrance and building interior at each location. After a thorough review of these three proposed polling locations, it appears that two of the locations require changes to be fully compliant with the regulations governing accessibility of polling places.

Please see the attached report indicating whether or not the locations complies with 950 CMR § 51.00. For those polling places that are non-compliant, the specific deficiencies are identified. To help you understand the enclosed report, the following explains the column titles.

Municipality: The city/town of the polling locations.

Polling Location: The actual location of the polling place.

Ward: The ward of the polling location.

Precinct(s): The precinct(s) of the polling location.

Location Complies: If yes, the polling location meets the requirements of 950 CMR § 51.00. If no, the polling location does not meet the requirements of 950 CMR § 51.00.

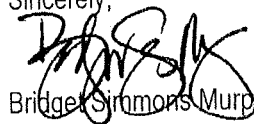
Violation Category: Of this column has data, then the notes include information regarding the reason the polling location does not meet the requirements of 950 CMR § 51.00.

As we discussed, please provide this office with an action plan of how Fitchburg intends to make the polling place accessible in accordance with 950 CMR § 51.00 *et seq.* Any changes to polling places for your municipal election/special state primary election must be made no later than October 18, 2017.

One Ashburton Place, 17th Floor, Boston, Massachusetts 02108
(617) 727-2828 • 1-800-462-VOTE (8683)
website: www.sec.state.ma.us/ele • e-mail: elections@sec.state.ma.us

I hope you find this report helpful. If you have any questions, please let me know. I look forward to hearing back from you.

Sincerely,



Bridget Simmons Murphy
Project Manager

Enc.

cc:

Michelle Tassinari, Director/Legal Counsel, Elections Division, Office of the Secretary of the Commonwealth
Jeffrey Dougan, Assistant Director for Community Services, Massachusetts Office on Disability

Massachusetts Polling Place Accessibility Survey Results

Municipality
FITCHBURG

<u>Polling Location</u>	<u>Ward</u>	<u>Precinct</u>	<u>Location Complies</u>	<u>Violation Category</u>	<u>Violation Notes</u>
Charles W. Moore Lodge Room 16 Thorndike Street	5	A & B	No	Entrance	The door threshold is measures 1 inch. Door thresholds should not be higher than 1/2 inch.
				Parking	Doors do not have lever handles. Some of the accesible parking spaces are missing signage with the International Symbol of Accessibility at each space or pair of spaces with the top of the sign between 5 and 8 feet high above the ground.
Messiah Lutheran Church 750 Rindge Road	5	A & B	No	Site access	The path of travel does not have continuous common surfaces and is interrupted by abrupt changes in level greater than 1/2 inch.

Prepared by the Elections Division,
Office of the Secretary of the Commonwealth of Massachusetts
William Francis Galvin

				Entrance/ramp	<p>The walkway leading to the entrance has a slope measuring 12.6% which exceeds the 1:12 or 8.3% requirement. The walkway is also missing a pair of handrails that are round or oval in shape and set in pairs with one at a height between 34 and 38 inches and a lower one at a height between 18 and 20 inches.</p>
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<p>Function Hall at Saima Park 61 Scott Road</p>	5	A & B	No	Site access	<p>The path of travel from the parking lot is interrupted with a 6 inch curb and 4 inch curb in places. A temporary portable ramp that measures at least 48 inches wide, with either handrails or wheel guards at least 2 inches high on both sides, with a slope that measures as close to 1:12 (8.3%) as possible would be needed to access entrance.</p>
				Parking	<p>Temporary accessible parking spaces need to be designated near the entrance. Each temporary accessible space should be identified with signage with the International Symbol of Accessibility with the top of the sign between 5 and 8 feet high above the ground.</p>

950 CMR: OFFICE OF THE SECRETARY OF THE COMMONWEALTH

950 CMR 51.00: POLLING PLACE ACCESSIBILITY FOR ELDERLY AND HANDICAPPED VOTERS

Section

- 51.01: Purpose
- 51.02: Accessibility Defined
- 51.03: Exemptions

51.01: Purpose

950 CMR 51.00 implements the federal Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee to 1973ee-6 (the "Act"), and applies to all Massachusetts elections in which a federal office appears on the ballot. The purpose of 42 U.S.C. §§ 1973ee to 1973ee-6 and of 950 CMR 51.00 is to promote the fundamental right to vote by improving access for handicapped and elderly individuals to polling places for federal elections.

51.02: Accessibility Defined

Section 3(a) of the Act, 42 U.S.C. § 1973ee-1(a), requires every city and town to assure that all polling places for federal elections are accessible to handicapped and elderly voters, unless the Secretary exempts them. A polling place is "accessible" to handicapped and elderly voters, for the purpose of sections 3(a) and 8(1) of the Act, 42 U.S.C. §§ 1973ee-1(a), 1973ee-6(1), only if all of the following requirements are met:

- (1) Site Access. A clear, reasonably lit, unobstructed path of travel must be provided from the designated spaces in the parking lot, and from the street, to the accessible entrance to the building where the polling place is located. Such path of travel shall have a continuous common surface, not interrupted by steps or abrupt changes in level greater than 1/2 inch.
- (2) Parking. If a parking lot is available on the premises of the polling place, then the following requirements apply:
 - (a) Pursuant to the Americans With Disabilities Act (ADA) Accessibility Guidelines (4.1.2 (5)), the number of required handicapped parking spaces is:

<u>Total no. of parking spaces</u>	<u>No. of handicapped required</u>
1 - 25	1
26 - 50	2
51 - 75	3
76 - 100	4
101 - 150	5
151 - 200	6
201 - 300	7
301 - 400	8
401 - 500	9
510 - 1,000	2% of total
1,001 and over	20 plus 1 for each 100 over 1,000

- (b) For parking lots striped prior to September 1, 1996:
 1. The handicapped parking spaces shall be eight feet wide and have an adjacent four foot access aisle which is painted or striped yellow. The lot shall be reasonably lit.
 2. Identification of handicapped spaces shall be by a sign at each space or pair of spaces. The signs shall be at a height of not less than five feet nor more than eight feet to the top of the sign. The sign shall also contain the International Symbol of Accessibility and may include wording identifying its use.
- (c) For parking lots striped after September 1, 1996:
 1. The handicapped parking spaces shall be eight feet wide and have an adjacent five foot access aisle which is marked by high contrast painted lines or other high contrast delineation. The lot shall be reasonably lit.

51.02: continued

2. There shall be at least one "van accessible" space, but not less than one, per eight accessible spaces. The van accessible space shall be eight feet wide and have an adjacent 8 foot wide access aisle which is marked by high contrast painted lines or other high contrast delineation. The lot shall be reasonably lit.

3. Identification of handicapped spaces shall be by a sign at each space or pair of spaces. The signs shall be at a height of not less than five feet nor more than eight feet to the top of the sign. The sign shall also contain the International Symbol of Accessibility and may include wording identifying its use. Van accessible spaces shall include the words "Van Accessible."

(d) If a sidewalk is provided at such parking spaces, a curb cut (sidewalk ramp) shall be installed at each space or pair of spaces. The slope of the curb cut shall not exceed 1:12.

(e) If no parking lot is available on the premises of the polling place, at least one on-street parking place in front of the polling place must be at least temporarily designated as a handicapped parking space. Identification of the handicapped space shall be by the sign provided in 950 CMR 51.02(2)(c)3..

(3) Entrance.

(a) At least one entrance to the building must be accessible to physically disabled persons. If the main entrance to the building is not accessible, signs must be posted directing persons from the ordinary path of travel to the accessible entrance.

1. If the main entrance to the building is not accessible, the path of travel to the accessible entrance shall be the same or a substantially similar distance as the path of travel to the main entrance.

2. If the main entrance is not the accessible entrance, the door to the accessible entrance shall be unlocked and capable of being operated without assistance during the hours the polling place is open and at the same hours as the main entrance.

(b) The approach to the accessible entrance shall be a paved walk or ramp with a non-slip surface, uninterrupted by steps or abrupt changes in level greater than ½ inch. Such entrance shall have a level space 60 inches from the door on the interior and exterior of the doors.

(c) Doors to such entrances shall be a minimum of 32 inches clear, measured at 90°. No door threshold shall be higher than ½ inch above the floor on either side. Lever handles or other accessible hardware must be provided on doors, so that they may be operated with a closed fist.

(4) Ramps.

(a) If the entrance has stairs, a ramp must be provided. A permanent ramp must comply with the following:

1. The slope of the ramp must be no steeper than 1:12.

2. The width of the ramp shall not be less than 48 inches.

3. Two pairs of handrails must be set on both sides of the ramp. Such handrails must be round or oval in shape and set in pairs, one at a height between 34 and 38 inches and a lower rail set at a height between 18 and 20 inches.

(b) If it is impractical to install a permanent ramp, portable ramps shall be provided. Portable ramps shall have a slope as close to 1:12 as possible, and if a portable ramp has no handrails or side walls, it must have wheel guards at least two inches high on both sides. Portable ramps may be used to gain access from the parking lot or street to the sidewalk as well as at the entrance to a building. Portable ramps shall be securely anchored.

(5) Building Interior.

(a) All interior doors, approaches, and ramps necessary within the building to obtain access to the polling place must comply with 950 CMR 51.02(3) and (4).

(b) An accessible route which provides a continuous unobstructed path at least 36 inches wide shall be maintained inside the polling place and shall coincide with the route for the general public.

(6) Voting Equipment.

(a) In every polling place, a specimen ballot must be posted at a height no greater than 48 inches.

51.02: continued

(b) Where paper or punch-card ballots are used, at least one marking shelf at each polling place (at a primary where punch-card booklets are used, one for each party) must provide clear space under the shelf not less than 30 inches wide, at least 27 inches clear to the underside of the shelf, and not more than 32 inches in height to the top of the shelf, and must contain privacy barriers on both sides of the shelf. For this special marking shelf, the handle of any stylus used for punching punch-card ballots shall be at least one inch thick and at least three inches long.

(c) Where voting machines are used, a specimen ballot must be placed in at least one machine at each polling place, at a height no greater than 48 inches. For voting machines which have any levers higher than 48 inches above the floor, a "reacher" must be made available to assist disabled persons in reaching the upper levers.

(7) Variances. A city or town may apply to the Architectural Access Board, under 521 CMR 3.00(4.1.1), for a variance from the accessibility requirements of 950 CMR 51.02 or, to the extent that they apply to any polling place, from the requirements of the Architectural Access Board's regulations in 521 CMR 3.00. Notice of an application for any such variance shall be given in the manner required by 950 CMR 51.03(4)(b), and shall also be given to the Director of Elections. No such variance shall be allowed which substantially impairs the accessibility of a polling place to handicapped and elderly voters.

(8) Time Accessibility Required. All non-exempt polling places must be accessible no later than three weeks before the first federal election of an even-numbered year.

51.03: Exemptions

(1) Delegation to Director of Elections. The Secretary delegates to the Director of Elections (the "Director") the authority to determine whether a polling place is exempt from the accessibility requirements under section 3(b) of the Act, 42 U.S.C. § 1973ee-1(b), and under 950 CMR 51.03.

(2) Emergency exemptions. In an emergency under section 3(b)(1) of the Act, 42 U.S.C. § 1973ee-1(b)(1), an exemption may be applied for and determined by telephone, but both the city or town and the Director shall confirm their communications in writing. Mere failure of the city or town to make adequate and timely plans and arrangements does not constitute an emergency. If an exemption is allowed, it applies only to one election, and the city or town must exercise its best efforts to find another accessible polling place, and if none is available, to provide whatever assistance is possible to handicapped and elderly voters. If an emergency exemption is allowed, handicapped or elderly voters assigned to such an emergency exempt polling place may vote by absentee ballot in the office of the city or town clerk or election commission without applying in advance. The procedures set forth in the second paragraph of M.G.L. c. 51, § 59 shall apply to such voters, except that the absentee ballot envelope shall be marked "Emergency Polling Place Exemption".

(3) Non-availability Exemptions; Standards. In determining under section 3(b)(2)(A) of the Act, 42 U.S.C. § 1973ee-1(b)(2)(A), that all potential places have been surveyed and that no accessible place is available, nor is the city or town able to make one temporarily accessible in the area involved, the Director shall consider the following factors:

(a) Whether each location has been studied by a trained person to determine whether or not it is accessible.

1. Polling places should not be presumed to be accessible simply because there are no obvious barriers, but 950 CMR 51.02 must be applied.
2. A trained person is one with knowledge of what constitute structural barriers to handicapped individuals.
3. Handicapped persons, representatives of handicap groups or professionals who work with handicapped individuals should be consulted.
4. If a location is inaccessible, then the city or town should either seek an alternative accessible location or seek to have the barriers removed.

950 CMR: OFFICE OF THE SECRETARY OF THE COMMONWEALTH

51.03: continued

- (b) Whether the owners or proprietors of the building have been consulted regarding the modifications. If the owners or proprietors are unwilling to make the modifications, then an alternative location should be sought. Possible locations include those which are currently accessible and those where the owners or proprietors are willing to make necessary modifications.
 - (c) Whether an estimate of the cost to make the modifications has been obtained from a qualified person (construction contractor, carpenter), and whether different options for removing the barriers have been explored (e.g., temporary ramps).
 - (d) With respect to polling places in inaccessible government buildings, whether the city or town has urged government officials to make the modifications necessary for the buildings to be accessible.
 - (e) The record of the city or town's percentage of polling places in compliance in the past.
 - (f) The city or town's expressed plans for providing an accessible polling place in the future.
- (4) Non-availability Exemptions: Procedure.
- (a) The city or town body responsible for selecting polling places under M.G.L. c. 54, § 24 (city council, board of selectmen, or election commission) must apply in writing for any exemption under section 3(b)(2) of the Act, 42 U.S.C. § 1973ee-1(b)(2). The application must be filed with the Director of Elections, under the penalties of perjury and in a form prescribed by him, not later than 180 days before the first federal election of an even-numbered year.
 - (b) Not later than the application deadline, the city or town must give notice that it has applied for the exemption, by posting notice on the principal bulletin board, sending copies to all local news media, and mailing copies to the local council on aging, to any municipal handicapped office or commission, to the state Office of Handicapped Affairs (One Ashburton Place, Room 1305, Boston, MA 02108), and to any additional organizations which the Director may prescribe. The notice shall state the designation and address of the polling place or places for which exemption is sought, the reasons for the application, the location at which a copy of the application may be inspected, and the fact that any person may file a written response within 30 days with the state Director of Elections, One Ashburton Place, Room 1705, Boston, MA 02108, telephone (617) 727-2828 or (800) 462-8683.
 - (c) Any person may file with the Director a written response to an exemption application within 30 days after it is filed.
 - (d) The Director may, in his discretion, seek further information from the city or town or hold an informal hearing before himself or his designee.
 - (e) Not later than 90 days before the first federal election of an even-numbered year, the Director shall notify the city or town in writing whether an exemption is allowed and of the reasons for the decision. The period of an exemption shall be two calendar years, beginning with an even-numbered year. Renewal of the exemption requires a new application.
- (5) Alternative Voting Methods. As required by section 3(b)(2)(B) of the Act, 42 U.S.C. § 1973ee-1(b)(2)(B), handicapped or elderly voters assigned to an exempt polling place may vote by absentee ballot, either by mail or in the office of the city or town clerk or election commission, if they previously apply in writing, under M.G.L. c. 54, §§ 86 through 103Q. Current state law prevents assigning such voters to another polling place, as well as "curbside voting" outside the polling place on election day.

REGULATORY AUTHORITY

950 CMR 51.00: 42 U.S.C. §§ 1973ee to 1973ee-6; c. 54, § 37.

Changes to Regulations: Chapter 51.00: Polling Place Accessibility for Elderly and Handicapped Voters

In 950 CMR § 51.01, replace the entire section with the following:

950 CMR § 51.00 implements the federal Voting Accessibility for the Elderly and Handicapped Act, 42 USC §§ 1973ee to 1973ee-6 (the "Act"), and Amended Article 114 of the Massachusetts Constitution and applies to all Massachusetts elections. The purpose of 42 USC 42 USC §§ 1973ee to 1973ee-6, Amended Article 114 of the Massachusetts Constitution and 950 CMR § 51.00 is to promote the fundamental right to vote by improving access for handicapped and elderly individuals to polling places and the voting process.

In 950 CMR 51.02(6), add the following new section as (a) and re-designate the remaining sections accordingly:

(a) For every state, federal, municipal election, preliminary or primary, either regular or special, each polling place shall have at least one accessible voting unit that is usable by people with disabilities. Any accessible voting unit must first be approved for use by the state secretary. Accessible voting units shall be located within a polling place so as to be readily available for use by voters during the voting hours.