

**CITY OF HYATTSVILLE
ORDINANCE 2017-01**

An ordinance whereby the City Council updates chapter 8 of the Code to reflect changes in the charter regarding qualifications to vote and to make explicit the authority of the Board of Supervisors of Elections, to provide for a Supplemental Voting Registry, to add a list of definitions and duties so as to clarify the elections law, to specify minimum times for the polls to be open, to change Absentee voting to Vote-by-Mail, to adjust campaign finance reporting deadlines to reflect early voting dates, to specify certain rules, and regulations and limitations regarding campaign finance, and to outline a complaint procedure for election law violations.

WHEREAS, Maryland Annotated Code, The Local Government Article, Section 5-202 grants to municipal corporations of the State of Maryland, including the City of Hyattsville, the power to protect the health, comfort, and convenience of their citizens; and

WHEREAS, the Mayor and City Council deem it in the best interest of its citizens to update the elections law to reflect early voting, City-Only Supplemental Voter Registry, voting and participation in elections, ~~and~~ define the powers of the Board of Supervisors of Elections, and to prevent corruption and circumvention of campaign finance provisions.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Hyattsville in regular session assembled that Chapter 8 of the Hyattsville Code is hereby amended to read as follows:

**Chapter 8
ELECTIONS
ARTICLE I**

General Election Procedures

- § 8-1. Definitions, and Powers and Duties of Board.
- § 8-2. Election Day, Advance Voting Day, **Vote-By-Mail**~~Absentee voting~~.
- § 8-4. Qualifications for Registration Officers, Clerks and Judges of Elections; oath of office and Applicability.
- § 8-8. Contests and appeals.
- § 8-9. Runoff elections.
- § 8-10. Campaign materials; authority line; penalty.
- § 8-11. Provisional voting.
- § 8-12. Registration of Voters for City-Only Supplemental Voter Registry.**

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[HISTORY: Adopted by the Mayor and Council of the City of Hyattsville 12-1-69. Section 8-7C amended at time of adoption of Code; see Ch. 1, amended 02-20-07 by HO-2007-03
General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Registration, nominations and elections - See Charter, Art. IV.

ARTICLE I

General Election Procedures

§ 8-1. Definitions, and Powers and Duties of Board.

A. As used in this chapter, the following terms shall have the meanings indicated unless a contrary meaning is clearly intended from the context in which the term appears:

Board: Board of Ssupervisors of Eelections for the Ceity.

Candidate: Individual who seeks nomination for election, or seeks election, to City office.

Contribution: A gift, in-kind, contribution, or promise of gift of money, donated to any candidate or representative or political committee.

Contributor: Any person who makes a contribution or expenditure of cash or in-kind contribution to or on behalf of a candidate or political committee.

Election: General or special elections, referenda, or other questions at any election held by the City.

Expenditure: Any transfer, disbursement or promise of money or valuable thing (in-kind contribution), by a candidate, treasurer, or other agent of such candidate, or political committee to promote or assist in the promotion of the success or defeat of a candidate or proposition submitted to a vote at any election.

Financial Institution: Any bank licensed to receive deposits and make loans which is insured by the Federal Deposit Insurance Corporation.

Foreign National: A foreign government, foreign political party, foreign corporation, foreign association or partnership. A United States citizen living abroad and an immigrant with a green card shall not be considered a foreign national.

In-kind contribution: Anything of value, other than a gift or promise of money, donated to any candidate or representative, or a representative of any political committee, to promote or assist any candidate, political committee, or proposition submitted to a vote of any election.

Person: A corporation, business, other legal entity, or an individual.

Political committee or “committee”: Any combination of two (2) or more persons formed in any manner, which independently collects or expends a cumulative amount of one hundred dollars (\$100.00) or more to assist in the promotion of the success or defeat of any candidate or slate of candidates for City elective office or any cause to be submitted to the voters.

Report: A report of expenditures, loans, and contributions (in-kind or cash) received by any candidate or political committee.

Surplus campaign funds: Funds left in a candidate’s account after the election is certified and all campaign debts, including all loans, have been paid.

Treasurer: Any person appointed by a candidate or political committee to receive or disburse money or other things of value to promote or assist in the promotion of any candidate or proposition.

Vote-by-Mail: shall include the process whereby voters make application for and submit completed ballots by either mail or in person drop off at a location authorized by the Board.

B. Powers and Duties of the Board of Supervisors of Elections.

In addition to any power, duty, or responsibility provided in the City Charter, the Board of Supervisors of Elections shall be in charge of all City elections. The Board shall:

- (1) Issue and maintain all election records in a separate filing system provided by the City.
- (2) Provide for the nominations for elected City officers and verify the eligibility of election candidates, which includes reviewing and certifying petitions for office as outlined in this chapter, and verifying that such candidates are residents of the City.
- (3) Provide, receive, review, and certify that campaign reports from candidates are timely and complete as outlined in the Elections Code.
- (4) Coordinate Ceity staff, with the approval of the City Administrator, to assist and support the Board in its official duties.
- (5) Provide for voting by ~~Vote-By-Mail~~voting by absentee ballot and provisional ballot.
- (6) Validate the authenticity of returned ~~Vote-By-Mail~~absentee ballots and completed provisional ballots.
- (7) Provide a form for the certificate of polling place challengers and watchers.
- (8) Select and train election judges to assist in the operation of the polling places ~~on~~ for City elections ~~day~~. The Board shall also oversee the operations of the polling places.
- (9) Issue the official election ballot.
- (10) Keep, maintain, administer, and update the City Supplemental Voter Registry and accept, examine, and, as appropriate, approve registration applications for the Supplemental Voter Registry.
- (11) Certify all election results.
- (12) Provide for recount of ballots.
- (13) Administer and enforce all election laws.
- (14) Conduct, as necessary, administrative review. The Board shall investigate and/or conciliate any written complaints and shall hold hearings and make determination on any alleged violations of the elections provisions of the Charter or elections ordinance of the City Code. The Board shall promptly inform the City Administrator of any hearing. The Board, when conducting an administrative review, shall be granted the following powers to:
 - a. Investigate complaints filed with the Board of matters of election practices or other matters within the jurisdiction of the Board.

- b. Dismiss complaints.
- c. Conciliate complaints.
- d. Summon concerned parties to hearings.
- e. Conduct hearings.
- f. Adopt rules and procedures for the conduct of hearings.
- g. Implement enforcement actions, which include cease and desist orders, and the ability to make recommendations to the City Administrator to impose civil penalties not to exceed one thousand dollars (~~\$500.00~~ 1000.00). The Board shall have the power to seek judicial enforcement of its decisions by application to courts of competent jurisdiction for injunctions, mandamus, and other appropriate judicial review when conducting an administrative review. The Board may also refer complaints to the Office of the State's Attorney for prosecution as the circumstance may warrant.
- h. Hearings conducted by the Board shall be open to the public. Unless otherwise provided, the City Attorney shall advise the Board. Either the complaining party or the respondent may request, in writing, a closed hearing. However, unless the Board finds a compelling reason to close the hearing (and closing is allowed by State law), the request shall ordinarily be denied. The deliberations of the Board shall not be public. The Board shall have the power to summon all witnesses it deems necessary. The hearing shall be held not less than seven (7) days, unless the Board determines that emergency circumstances require an earlier hearing, and not more than thirty (30) days after service of the statement of charges and summons. The summons so issued must be signed by the chairperson of the Board or a designee and shall require the attendance of named persons and the production of relevant documents and records. Failure to comply with a summons shall constitute violation of this chapter and subject to penalty pursuant to §8-34 of this chapter. The complaining party or parties and the respondent may, at their option, appear before the Board in person or by duly authorized representative(s) and may have the assistance of an attorney. The parties may present testimony and evidence that shall be given under oath or by affirmation. The Board shall keep a full record of the hearing. If the hearing is public, the record shall be open to inspection by any person, and, upon request by any principal party to the proceeding, the Board shall furnish such party a copy of the hearing record, if any, at such charges as are necessary to meet costs. The Board may extend the time for any hearing and the issuance of any finding, opinion, and orders. The Board has the power to adopt rules and procedures with reference to the conduct and manner of these proceedings.

§ 8-2. Election Day, Advance Voting Day, Vote-By-MailAbsentee voting. [Amended 2-9-09 by HO-2009-04]

- A. Election Day for Special Elections and referenda shall ordinarily be done on a Tuesday as set by the City Council.
- B. If the City Council or Board of Supervisors of Elections provides for an advance voting day in any referendum or Election, ~~ordinarily unless otherwise directed~~, the Saturday immediately

before Election Day shall be an advance voting day when the polls shall be open to qualified voters at the times and places specified and advertised by the Board of Supervisors of Elections. The polls shall be open for a minimum of eight (8) hours on any advance voting day **that occurs on a weekend and at least four (4) hours on advance voting days on a weekday. In no event will an advance voting date be set more than fifteen (15) days before Election Day.**

C. Any person qualified to vote in the Election may **use a Vote-By-Mail** absentee ballot, but only pursuant to the provisions of this Chapter.

§ 8-4. Qualifications for Registration Officers, Clerks and Judges of Elections; oath of office and Applicability. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89]

A. Registration Officers and Judges and Clerks of Elections appointed by the City Council or by the Board shall be registered voters of the City ~~and citizens of the United States~~. They shall, before entering upon their duties, take the oath required by law for all registration and election officials.

B. This chapter applies to elections as defined in this chapter.

§ 8-8. Contests and appeals. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89]

Contests concerning voting or the validity of any ballot under this chapter shall be decided by the Board of Supervisors of Elections. No ballot shall be rejected except by the unanimous vote of the entire Board. Any candidate or ~~absentee~~ voter aggrieved by any decision or action of such Board shall have the right of appeal to the Circuit Court for Prince George's County, Maryland. Such appeals shall be taken by way of petition filed with the court within five (5) days from the date of the completion of the official canvass by the Board of all the votes cast at any election and shall be heard de novo and without a jury by said court as soon as possible. There shall be a further right of appeal to the Court of Appeals, provided that such appeal shall be taken within forty-eight (48) hours from the entry of the decision of the lower court complained of, and all such appeals shall be heard and decided on the original papers, including a typewritten transcript of the testimony taken in such cases, by the Court of Appeals, as soon as possible after the same have been transmitted to said court. Said original papers, including the testimony, shall be transmitted to the Court of Appeals within five (5) days from the taking of the appeal.

§ 8-9. Runoff elections. [Added 5-5-86 by HB No. 3-86]

A. If, at any election directed by the Charter, any two (2) or more candidates for the office of Mayor or Councilmember who have received the highest number of votes shall have received an equal number of votes, or the vote upon any referendum, **except for an advisory referendum**, shall result in a tie, a special election shall be ordered by the Board of Election Supervisors.

B. The special election shall be held within three (3) months of the election at which the tie vote occurred, ~~shall be only for~~ **include** those offices for which the equal number of votes was cast or referendum questions which resulted in a tie vote, and shall be conducted in the same manner as provided in the relevant sections of Article IV of the Charter.

§ 8-10. Campaign materials; authority line; penalty. [Added 2-20-2007 by HO-2007-03]

A. For the purposes of this Code, "campaign material" means any material that:

- (1) Contains text, graphics, or other images;

(2) Relates to a candidate, a prospective candidate, or the approval or rejection of a question; and

(3) Is published or distributed to anyone by, at the request of, or under the authority of, a candidate **or committee**.

B. Except as otherwise provided in this section, each item of campaign material shall contain, set apart from any other message, an authority line that states the name and address of the person, treasurer, or campaign manager responsible for the publication or distribution of the same.

C. The authority line need state only the name and title of the responsible person if:

(1) The name and address of the responsible person has been filed with the City Clerk; or

(2) The campaign material item is too small to include all the information specified in paragraph (B) of this section in a legible form.

D. Any material that is published or distributed in support of or in opposition to a candidate **or referendum** without being directly or indirectly authorized by the candidate as provided above in Subsection (A)(3) may and ordinarily should include the following statement: "this message has been authorized and paid for by (name of payer or any organization affiliated with the payer). This message has not been authorized or approved by any candidate."

E. It shall be unlawful for any person to knowingly publish or distribute for the purpose of influencing votes any materials with a false or incorrect authority line. Any person who violates this section shall be guilty of a misdemeanor and subject to the penalties including a **fine of up to** five hundred dollar (\$500.00) and/or imprisonment **not to exceed** thirty (30) days.

§ 8-11 . Provisional Voting. [Added 12-1-14 by HO 2014-09]

A. Eligibility. An individual is eligible to cast a provisional ballot if:

(1) The individual declares in a written affirmation under oath submitted with the provisional ballot that the individual is a registered voter in the State **or the City** and is eligible to vote in that election, and

(2)

(i) The individual's name does not appear on the City's election register or list of voters; or

(ii) An election official asserts the individual is not eligible to vote.

B. Application. Before an individual casts a provisional ballot,

(1) The individual shall complete and sign the provisional ballot application prescribed by the Board of Elections Supervisors, and

(2) The individual shall be given a data sheet on how the voter may obtain information on whether the vote was counted or not counted and the reasons therefore.

C. Locations and procedure. An eligible voter shall be issued and may cast a provisional ballot at a polling location on Election Day or at an early voting location during early voting.

D. Special envelopes. When voted, a provisional ballot shall either be enclosed in an envelope designated for such ballots or stored in an electronic format as specified by the Board of Elections.

E. Penalties. Any person who is convicted of violation of any of the provisions of this section or of making a false statement pursuant to an application for a provisional ballot shall be guilty of a misdemeanor and subject to a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for no more than six (6) months, or both.

F. Canvass of provisional ballots.

- (1) The Board of Elections shall adopt regulations regarding the handling and canvassing of provisional ballots.
- (2) An envelope of a provisional ballot shall not be opened until the Board of Elections has approved the provisional ballot application.
- (3) The Board of Elections may not reject a provisional ballot except by unanimous vote.
- (4) The Board of Elections shall reject a provisional ballot if:
 - (i) The individual is not qualified to vote in the election;
 - (ii) The individual failed to sign the oath on the provisional ballot application;
 - (iii) The individual cast more than one (1) ballot for the same election; or
 - (iv) The provisional ballot is marked by an identifying mark that is clearly evident and can be used to identify the ballot.
- (5) The Board of Elections shall establish a system that any individual who casts a provisional ballot may access whether the ballot was counted.

§ 8-12. Registration of Voters for City Only Supplemental Voter Registry.

A. Pursuant to the City Charter, the Board shall maintain a supplemental voter registry of those voters who are not registered to vote under the State Universal Registration Act. Any such voter qualified under C4-1, who is at least 16 years of age, has the City of Hyattsville as the applicant's primary residence, has resided within the corporate limits of the City for thirty (30) days, does not claim the right to vote elsewhere in the United States and has not been found by a Court to be unable to communicate a desire to vote, is eligible to register for the City Supplemental Voter Registry.

B. Procedures. Any person qualified to register to vote shall complete a City Registration Application, which shall be under oath and signed by the applicant. The applicant shall submit to the Board documentary proof as outlined in subsection C below ~~that the applicant meets the above qualifications to be on the City Supplemental Voter Registry.~~ Upon approval of the documentation, the Board shall register the applicant on the City Supplemental Registry.

C. Required identification and proof of residence. The following documents shall be considered acceptable to establish the qualifications for registration:

- (1) **Current photo identification or an identification card issued by a federal, state, or local government entity of the United States or any foreign country or school provided the identification document contains a photograph or identifying information such as name, date of birth, gender, height, or eye color. Examples of acceptable documentation include a United States or foreign passport, visa, alien registration card, driver's**

license, Motor Vehicle Administration identification card, military identification, or school ID with photo; or

(2) Documents that establish current residency, if not already established by the documents above. Examples include a copy of a deed, house or apartment lease, utility bill, paycheck, bank statement, school record, or other official or government document that shows name current address in the City; or

(3) If the applicant is unable to provide the acceptable identification or proof of residence as recited above, it shall be acceptable proof if the applicant submits an affidavit on a form provided by the City Clerk attesting to the qualifications. The affidavit shall contain the following information:

- (i) the applicant's name and residence address including street and number;
- (ii) a statement that the applicant meets the registration requirements of the City Charter to be a qualified voter in the City;
- (iii) that the address on the application is the applicant's ~~his or her~~ primary residence;
- (iv) the applicant has lived in the City of Hyattsville for at least thirty (30) days; and
- (v) the applicant does not claim the right to vote elsewhere in the United States.

The affidavit shall be executed under the penalties of perjury.

ARTICLE II

Campaign Finance

[Added 4-9-07 by HO-2007-07]

§ 8-15. Reports required. [Amended 12-1-14 by HO 2014-10]

A. Each candidate for the Office of Council or Mayor and the candidate's designated campaign treasurer shall file with the City Clerk reports as specified below ~~which~~ **that** shall list individually each and every contribution and expenditure **as defined in this chapter** in furtherance of the candidate's nomination and election. The reports shall also include a total amount of all contributions.

B. Any political committee making expenditures in excess of one hundred dollars (\$100.00) to assist in the promotion of the success or defeat of any candidate or slate of candidates for elective office or to advocate a position on any cause to be submitted to the voters, shall file reports in accordance with this Article.

C. Unless otherwise provided, any report shall include contributions received or expenditures made by the candidate, ~~or made by~~ any other person with the knowledge of the candidate, ~~or~~ the candidate's treasurer, **or any person acting on behalf of a political committee**. Reportable contributions and expenditures shall include cash, campaign signs, brochures, postage, advertisements, professional services (*i.e.*, the entity or person is or has been compensated for similar services regularly on a full or part-time basis outside of the campaign), and any other material used for the campaign.

D. All reports filed shall be available for examination by any member of the public during normal office hours of the City Clerk.

E. **All candidates/committees shall file their campaign finance reports as herein provided as well as with the State Board of Elections.**

F. In this Article II the term “candidate” shall include any individual who has not registered as a candidate, but is actively running for elected office in a City election, or any individual who shall be declared as elected by the Board of Supervisors of Elections. **The Board shall determine the applicant’s campaign finance report(s) to be filed by such a “candidate.”**

§ 8-16. Deadline for filing reports; Review by Board.

A. **When there is no advance voting day, the following deadlines for campaign reports shall apply:**

1. **Initial Report** - An initial report shall be filed on the 15th day preceding the election day and shall include all reportable contributions and expenditures made since the last preceding election.

2. **Second Report** - A second report shall be filed on the 7th day preceding the election day and shall include reportable contributions and expenditures made since the last preceding election.

3. **Third Report** - A third report shall be filed on the 7th day following the election day and shall include all reportable contributions and expenditures made since the last preceding election.

B. **When there are advance voting days, the following deadlines for campaign reports shall apply:**

1. **Initial Report** - An initial report shall be filed on the 5th day preceding the first advance voting day and shall include reportable contributions and expenditures made since the last preceding election.

2. **Second Report** - A second report shall be filed on the 7th day preceding the election day and shall include reportable contributions and expenditures made since the last preceding election.

3. **Third Report** - A third report shall be filed on the 7th day following the election and shall include reportable contributions and expenditures made since the last preceding election.

C. **Further Reports** - If a final report reflects a cash balance, unpaid bill(s), or a deficit greater than five hundred dollars (\$500.00), an annual report shall be filed on or before December 31 of each year, until the cash balance, unpaid bill(s), or deficit is eliminated and a report reflecting such is filed with the City Clerk’s Office. Each report filed shall include all contributions and expenditures made or received since the previous report.

D. **Reports must be filed at the office of the City Clerk by 5:00 p.m. of the day they are due.**

E. **The Board shall appoint an individual or individuals with some expertise in reading financial statements to promptly review all reports filed. This person shall notify the Board of any irregularities, discrepancies, or errors; recommend action to the Board; and attempt to assist the persons reporting to correct any deficiencies.**

§ 8-17. Form; affirmation of report.

A. The reports shall be made on forms or in a format provided by the City Clerk and approved by the City Attorney. The reports shall be subscribed and sworn to (or affirmed) by the candidate and by the candidate's treasurer, **or by the officers of a political committee, and shall include the receipts for all expenditures, dates, amounts, and information to identify each contributor and recipient of funds.**

B. Each report shall include any balance remaining from the last reporting period (including prior elections), as well as all contributions received and expenditures made from the day of the filing of the last report (if any) through the day preceding the filing of the report.

§ 8-18. Special reporting requirements.

~~A. **Family contributions**~~ - a report need not identify separately the campaign contributions made by the candidate or the candidate's spouse or domestic partner but may aggregate such under one line or total.

~~B. — In a case where the total contributions for the campaign (excluding contributions by the candidate, or the candidate's spouse/domestic partner) are less than fifteen hundred (\$1,500.00) dollars for a Councilmember candidate or five thousand (\$5,000.00) dollars for Mayoral candidate, the candidate may file an abbreviated report that attests under oath that the contribution limits outlined herein were not exceeded, and states the total contributions, the contributions outlined in subsection (a) above, and the contributions outlined in section 8-15. **Nothing in this section 8-18 waives the requirements of reporting all expenses.**~~

§ 8-19. Appointment of Treasurer.

A. Each candidate **or political committee** shall appoint one treasurer and shall file the name and address of the treasurer, together with the treasurer's acceptance of the appointment in writing, on a form provided by, and returned to, the City Clerk, no less than thirty (30) days ~~prior to~~**before** the election. **In the event of the resignation of an appointed treasurer, the candidate or committee must immediately inform the Board and shall within seventy-two (72) hours appoint a new treasurer and so inform the Board in writing.**

B. A candidate **or member of the political committee** may serve as the treasurer so long as the candidate **or committee** has not received and does not intend to receive a total of reportable contributions more than fifteen hundred dollars (\$1,500.00) excluding contributions **to a candidate's campaign if made** by a candidate or the candidate's spouse.

C. In the event the contributions exceed the amount in subsection (b) immediately above, the candidate **or committee** must report such to the eCity eClerk, and appoint a treasurer and file the appropriate form within two (2) days.

§ 8-20. Failure to appoint a treasurer or file reports.

A. ~~The Board of Election Supervisors~~ or the Clerk shall promptly send a written notice to any candidate **or committee** who fails to appoint a treasurer or to file timely campaign finance reports. Such notice shall be posted on the City's website and on the City's bulletin board.

B. ~~The Board of Election supervisors~~ is responsible for ensuring that all forms and campaign finance reports are in substantial compliance with this chapter. If the Board identifies a reporting inaccuracy or deficiency, ~~they~~ **it** shall notify the candidate and candidate's treasurer in writing.

A corrected report shall be filed within seven (7) days of such notice, unless the Board waives such inaccuracy or deficiency for good cause, with or without a hearing.

C. Failure to file a corrected report within seven (7) days after a notice from the Board or the City Clerk is sent shall render the report overdue.

§ 8-21. Restrictions on Campaign Contributions.

A. Maximum contribution. The maximum contribution per contributor for any one candidate or committee shall be no more than five hundred dollars (\$500.00) for any City election. No candidate or political committee may accept money from any contributor if the contributor has previously contributed five hundred dollars (\$500.00) to the election or issue.

B. Maximum contribution. No candidate or political committee or any person acting on behalf of a candidate or political committee may accept a contribution in excess of five hundred dollars (\$500.00) from any one person (or entity) in any election.

C. Prohibitions. No candidate or political committee shall accept any contribution from a(n) (1) anonymous contributor or (2) a foreign national which is defined as a foreign government, foreign political party, foreign corporation, foreign association or partnership. A United States citizen living abroad and an immigrant with a green card shall not be considered a foreign national as defined in Section 8-1. Any such contribution shall be promptly paid over to the City to be used for any public purpose.

D. Candidate and spouse contributions. The contributions of a candidate or the candidate's spouse to the candidate's own campaign shall not be subject to the limitations of this Section 8-21, but monetary contributions must pass through the candidate's campaign account and be reported.

E. Separate campaign account. When the contributions received by a candidate or political committee exceed a total of two hundred dollars (\$200.00), all funds must be deposited in an campaign account opened with a financial institution and designated with the City of Hyattsville as the candidate's or political committee's campaign account. Such funds must not be commingled with any other funds or accounts.

F. Loans for a campaign.

(1) A loan to a candidate is considered a contribution unless: (a) the loan is from a financial institution or other entity in the business of making loans or (b) the loan is to the candidate and repayment is personally guaranteed by the candidate and is due within one year of the date of the loan.

(2) A loan by the candidate or spouse is exempt from the requirements of this subsection.

(3) The total amount of all loans to a candidate or committee for any election shall not exceed five thousand dollars (\$5,000.00). Amounts spent by candidate of their own money shall not be limited by this subsection.

G. Contributions from corporate entities. No candidate may accept a contribution from a corporation, business, or legal entity. This prohibition only applies to direct contributions from a corporation, business, or legal entity.

§ 8-22. Restrictions on Use of Campaign Funds.

A. No cash withdrawals shall be allowed.

B. Campaign funds shall not be used to pay a fine for a violation of this Chapter.

C. No person other than a candidate, treasurer, political committee, or other agent with specific written authorization by the candidate or political committee, shall make an expenditure from the campaign account.

D. Disposition of surplus funds. After an election, surplus funds shall not be converted to personal use. A a candidate or political committee may retain surplus funds or, if not retained, surplus funds shall ~~may~~ be disposed of as follows:

(1) Returned, pro rata, to the contributors by the treasurer; or

(2) Paid to a charitable organization registered pursuant to Article 41, Section 103B, of the Annotated Code of Maryland, as amended, or to a charitable organization exempt from such registration pursuant to Article 41, Section 103 of the Annotated Code of Maryland, as amended; or

(3) Paid to a local board of education or to a recognized nonprofit organization providing services or funds for the benefit of pupils or teachers; or

(4) Paid to any public or private institution of higher education in the state for scholarship or loan purposes.

§ 8-23. Penalties. [Amended 12-1-14 by HO 2014-10]

A. The City Ethics Commission shall have non-exclusive jurisdiction to investigate and decide any violations of this Article II. **The City Administrator shall monitor and make appropriate recommendations to the Board and the Ethics Commission in the event of duplicative hearings.**

B. The penalties recited in this section are cumulative so that the imposition of one or more of the penalties does not preclude the imposition of any other penalty outlined in this section.

C. A candidate shall not be seated and sworn as an elected official and shall not receive a salary until all reports required by this chapter are filed in compliance with the requirements of this Chapter as well as all reports required by the City's Ethics Ordinance.

D. In addition to any other penalty or sanctions the City Council may, after notice and/or hearing, impose such censure or penalty on the person elected who has violated this Article that the Council deems reasonable and appropriate including a refusal to seat the individual, removal from office, and a declaration that the seat is vacant.

E. It shall be a misdemeanor for any person, including a treasurer or candidate for public office, to willfully violate or cause or allow a violation of this Article II. Upon conviction, a fine of up to one thousand dollars (\$1,000.00) may be imposed by the Court.

F. The Board may impose a fine of two hundred (\$200.00) dollars on any unsuccessful candidate and the candidate's treasurer if the final report as described in section 8-14 above is more than seven (7) days late. The Board shall have the power to waive or reduce the penalty for good cause with or without a hearing.

G. The Board may at its discretion choose not to qualify as a candidate any individual who in any previous campaign as a candidate has not filed all required reports. The Board shall not qualify as a candidate anyone who has consistently failed to observe any required procedures regarding election in previous campaigns. The Board shall have discretion to consider any mitigating circumstances in any ruling on a candidacy. Appeals to Board action shall be available pursuant to C-4-7 of the Charter.

ARTICLE III

Vote-by-Mail Absentee Ballots

§ 8-27. Application Form for Vote-by-Mail Absentee Ballot. [Added 5-3-76; Amended 12-19-83 by HB No. 15-83; 2-6-89 by HB No. 1-89, Amended 2-20-07 by HO-2007-03]

A. Printed forms of applications for **Vote-by-Mail** absentee ballots in accordance with the requirements of this chapter shall be provided by the Board and shall be available to any qualified voter.

B. The Board of Supervisors of Elections shall prescribe the forms of application for candidacy, **Vote-by-Mail** absentee registration and ballot, application for **Vote-By-Mail** absentee ballot by a registered voter, and related affidavits and statements for consideration by the Mayor and City Council as the Board deems necessary.

§ 8-28. Contents of Application for Vote-by-Mail Absentee Ballot. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89; Amended 2-20-07 by HO-2007-03; Amended 2-9-09 by HO-2009-04]

A qualified voter desiring to vote at any election as an **Vote-by-Mail** absentee voter shall make an application, in writing, to the Board for an **Vote-By-Mail** absentee ballot. The application shall contain an affidavit, which need not be under oath but which shall set forth the following information under penalty of perjury:

A. The voter's name and residence address, including the street and number.

B. That the person is a qualified voter at the residence address given.

C. If the person voted at the preceding election, the residence address from which he or she voted.

D. The address to which the ballot is to be mailed, if different from the resident address.

§ 8-29. Vote-by-Mail Absentee Ballots: Review of Applications, Delivery and Maintenance of Records. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89, Amended 2-20-07 by HO-2007-03; Amended 2-9-09 by HO-2009-04]

A. Rejection of application. Upon receipt of an application containing the affidavit, the Board shall reject the application only upon the unanimous vote of the entire Board and, when rejected, shall notify the applicant of the reason therefor, if it determines, upon inquiry, that the applicant is not legally qualified to vote in the election.

B. Delivery of ballot. If the applicant is a qualified voter as stated in ~~the~~^{his/her} affidavit, the Board shall, as soon as practical thereafter, deliver to ~~the applicant~~^{him/her} at the office of the Board or mail ~~the voter's Vote-by-Mail ballot to the applicant~~^{the voter's Vote-by-Mail ballot to the applicant} at an address designated by ~~the applicant~~^{him/her} an ~~Vote-by-Mail~~ absentee voter's ballot. If the applicant is one with respect to whom free postage privileges are provided for by any other federal law, rule, or

regulation, the Board shall take full advantage of these privileges. In all other instances, postage for transmitting ballot material to voters shall be paid by the voters. If the ballots are to be sent by mail, the determination required in Subsection A of this section shall be made in such time as will allow the sending and return of the ballots by regular mail, depending on the mailing address, and including at least one (1) day for marking the ballots and completing the affidavit.

C. Record of applications received and ballots delivered.

(1) The Board shall keep a record of applications for **Vote-By-Mail** absentee voters² ballots as they are received; showing the date received and the names and residence of the applicants, and such record shall be available for examination by any registered voter.

(2) After approval of an application for an **Vote-by-Mail** absentee ballot and the mailing/delivery to the applicant of an **Vote-by-Mail** absentee ballot, then the **approved applicant's** voters record card in the precinct binder shall be removed and placed in a separate binder marked "registered **Vote-by-Mail** absentee voters" and retained in the office of the Board. A marker shall be placed in the regular precinct binder with the voter's name and shall record the fact that an **Vote-by-Mail** absentee ballot has been mailed, which shall show the date on which the ballot was sent. No such voter shall vote or be allowed to vote in person at any polling place.

D. One (1) ballot per applicant. Not more than one (1) **Vote-By-Mail** absentee ballot shall be mailed to any one (1) applicant unless the Board has reasonable grounds to believe that the **Vote-By-Mail** absentee ballot previously mailed has been lost, destroyed, or spoiled.

§ 8-30. Form and Contents of Absentee Ballots. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89]

A. Printing of ballots for **Vote-By-Mail** absentee voters, envelopes, and instructions. In sufficient time ~~prior to~~ before any election, the Board shall have printed an adequate number of ~~absentee~~ ballots, the three (3) kinds of envelopes described in this section, and the instructions to **Vote-By-Mail** absentee voters as set out in ~~§ 8-9~~ of this chapter.

B. **Vote-By-Mail** Absentee ballots, ~~in~~ at the discretion of the Board, will be in the form of paper ballots. The form and arrangement of all ~~such~~ absentee ballots shall be as prescribed by the Board of Supervisors of Elections.

C. Format and printing of ballots. The ballots shall contain the words "**Vote-By-Mail** absentee ballot" printed in large letters in a clear space at the top of each paper ballot. Underneath these words shall be printed the following warning: "Mark ballot by placing X in proper blank after each candidate or question. Do not erase or make identifying mark." The designation of the election ward shall be left blank on paper ballots on the back and outside of said ballots, and such designation shall be filled in by the Board before being sent to any registered ~~absentee~~ voter. All candidates shall be listed by office and alphabetically within the office. Referendum questions shall follow the listing of candidates for all offices.

D. Envelopes. The Board of Supervisors of Elections shall prescribe the size, form, and printed content of the **Vote-By-Mail** absentee ballot material envelopes, providing for a covering envelope, a ballot envelope, and a return envelope.

§ 8-31. Instructions to voters. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89; Amended 2-9-09 by HO-2009-04]

Printed Instructions. The printed instructions for the casting of **Vote-By-Mail** absentee ballots shall be prescribed by the Board of Supervisors of Elections, and it shall prescribe instructions for paper ballots.

Restrictions regarding Ballots. No completed ballot shall be handled or delivered by a candidate or an individual volunteering or working for a candidate except for ~~their~~his/~~her~~ own ballot or that of ~~their~~his/~~her~~ immediate family member or a member of ~~their~~his/~~her~~ household.

Delivery. Completed ballots during voting hours may be hand-delivered to the City Clerk's Office during normal business hours or to the Board of Supervisors of Elections during voting hours at the voting places on any Election day or advance of Election Day, or at a place and time designated by the Board of Supervisors of Elections for receiving such.

§ 8-32. Vote-by-Mail Absentee Ballots; Procedure for Assistance. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89, Amended 2-20-07 by HO-2007-03; Amended 2-9-09 by HO-2009-04]

A. Application procedure for voting. Any qualified voter shall make application for an **Vote-by-Mail** absentee ballot as provided in this chapter. The completed application shall be filed in the office of the Board of Supervisors of Elections no later than 10:00 a.m. on the last day the City offices are open for regular business ~~prior to~~ before election Day. No completed application shall be handled, or delivered by a candidate or an individual volunteering or working for a candidate except for ~~their~~his/~~her~~ own application or that of ~~their~~his/~~her~~ immediate family member or a member of ~~their~~his/~~her~~ household. Upon receipt of a completed application, the Board shall mail or provide to the voter entitled thereto an **Vote-By-Mail** absentee ballot.

B. Assistance in marking ballot. Any otherwise qualified voter who is blind, physically challenged or impaired and is for one (1) of these reasons unable to mark ~~their~~his/~~her~~ absentee ballot and sign the required oath may be assisted in voting by any person selected by the voter. Any person rendering assistance pursuant to this subsection must execute the certification of the oath of person assisting **Vote-By-Mail** voter form.

§ 8-33. Procedure for Counting and Canvassing Vote-By-Mail Absentee Ballots. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89; Amended 2-9-09 by HO-2009-04]

A. Opening or unfolding ballots. The Board shall not open or unfold any **Vote-By-Mail** absentee ballot at any time ~~prior to~~ before the closing of the polls and the beginning of the canvass of the absentee ballots.

B. Procedure generally. No absentee ballot shall be counted if it is received by the Board of Supervisors of Elections after the closing of the polls on election Day. Immediately following the canvass of the votes cast at the regular voting places in the City on Election Day, the Board shall meet at the usual office of the Board and shall proceed to count, certify, and canvass the **Vote-By-Mail** absentee ballots contained in the ballot envelopes received ~~by it prior to~~ before the closing of the polls on Election Day. No ballot shall be rejected by the Board except by the unanimous vote of the entire Board. This canvass shall be conducted by ward in accordance with the applicable provisions of § C4-11 of the City of Hyattsville Charter. All **Vote-By-Mail** voters' applications, certifications, ballot envelopes, and ballots shall be kept separate and apart from ballots cast at the regular voting places and retained for six (6) months after the date of the election at which they were cast, unless prior to that time the Board shall be ordered by a Court of competent jurisdiction to keep the same for any longer period.

C. Ballot voted for person who has ceased to be a candidate. Any **Vote-By-Mail**~~absentee~~ ballot voted for a person who has ceased to be a candidate shall not be counted for such candidate, but such vote shall not invalidate the remainder of such ballot.

D. Death of voter before ~~E~~election ~~D~~day. Whenever any Board shall determine from proof of investigation that any person who has marked and transmitted or deposited in person with the Board an **Vote-By-Mail**~~absentee~~ ballot, whether under act of Congress or the provisions of this chapter, has died before election day, said Board shall not count the ballot of said deceased voter, but it shall be preserved by the Board for six (6) months and may then be destroyed. If, at or ~~prior to~~ **before** the time of such counting and canvassing, the Board shall not have determined that the ~~absentee~~ resident who marked a ballot had died before election day, said ballot shall be counted, and the fact that said **Vote-By-Mail**~~absentee~~ resident may later be shown to have been actually dead on election day shall not invalidate said ballot or said election.

E. Placement of ballots in **Vote-By-Mail**~~absentee~~ ballot box and entry in registry; more than one (1) ballot in envelope; marking ballots. If the Board determines that the provisions for filling out and signing the oath on the outside of the ballot envelope have been substantially complied with and that the person signing the voter's oath is entitled to vote under this chapter in any ward of the City, as the case may be, and has not already voted therein on election day, it shall open the ballot envelope and remove the ballot ~~the~~ therefrom and place it in an **Vote-By-Mail**~~absentee~~ ballot box. When any ballot envelope is opened, the Board shall enter in the appropriate register the fact that the voter whose name appears thereon has voted, using the initials "**VBMAB**" to indicate the vote has been by a **Vote-By-Mail**~~absentee~~ ballot. If there is more than one (1) ballot in the ballot envelope, all shall be rejected. **Vote-By-Mail**~~absentee~~ ballots may be marked by any kind of pencil or ink.

F. More than one (1) ballot received from the same person. If the Board receives from the same person ~~prior to~~**before** the closing of the polls on ~~E~~election ~~D~~day more than one (1) **Vote-By-Mail**~~absentee~~ ballot, it shall count, certify, and canvass only the **Vote-By-Mai**~~L~~~~absentee~~ ballot with the earliest date, or, if both are undated or dated the same, none of the ballots received from such person shall be counted.

§ 8-34. Penalty. [Added 2-20-07 by HO-2007-03]

Anyone who willfully signs any ~~false~~ application, **affidavit**, or oath **containing false information** or who willfully does any act contrary to the terms and provisions of this chapter with **the** intent to cast an illegal vote or to aid another in doing so or who willfully violates any of the provisions of this ~~C~~chapter or who applies for a ballot under any other name than **their**~~his/her~~ own name shall be guilty of a misdemeanor and, upon conviction, be subject to a fine of not more than **one thousand dollars** ~~five hundred dollars~~ (**\$1000.00**) or to imprisonment of not more than ninety (90) days, or to both, at the discretion of the Court.

ARTICLE IV

Complaints

§ 8-40. Filing Procedure for Complaints.

Any candidate for office who believes they should be certified as elected by the Board and has not been certified, must file with the Board a complaint within seven (7) days of the

Board's certification. Any person who is a qualified voter of the City and believes that a violation of this chapter or a provision of the City Charter has occurred, except for the question of the certification of a candidate by the Board, may file a written complaint with the Board of Supervisors of Elections. The complaint shall include all particulars of the allegation, and must be signed by the complaining party. Such complaint must be filed with the Board within one hundred and eighty (180) days of the date of the alleged violation, but may not be filed later than one hundred eighty (180) days from the date of the most recent election to which the alleged violation pertains.

§ 8-41. Investigation of Complaints.

After the filing of any complaint, the Board of Supervisors of Elections shall make such investigation as deemed appropriate to ascertain whether there are reasonable grounds to believe the allegation is true. The Board may request the City Administrator's assistance in this investigation.

§ 8-42. Procedure When Violation of Chapter Not Found.

If the Board of Supervisors of Elections, in investigating a complaint, determines there are no reasonable grounds to believe that a violation of this chapter has occurred, the Board shall issue a written order dismissing the complaint.

§ 8-43. Procedure When Violation of Chapter is Found.

If the Board of Supervisors of Elections, in investigating a complaint, determines there are reasonable grounds to believe that a violation of this chapter has occurred, the Board or its designee shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representative as the parties may choose to assist them. If a complaint is conciliated, the terms of the conciliation agreed to by the parties may be reduced to writing and incorporated into a consent agreement as needed.

§ 8-44. Board Hearings Generally.

If there are reasonable grounds to believe a violation of law has occurred and the case has not been conciliated, the Board shall serve upon the person against whom the complaint has been filed (designated as the "respondent") a summons and statement of charges shall be served upon all interested parties along with a notice of the time and place of the hearing. The respondent or an authorized representative may file such statements with the Board before the hearing date as deemed necessary in support of respondent's position.

§ 8-45. Board Action When Violation of Chapter Not Found.

If, at the conclusion of a hearing, the Board determines, upon the preponderance of the evidence of record, that the respondent has not violated this chapter or any applicable election law, the Board shall state and publish its findings and issue an order dismissing the complaint.

§ 8-46. Board Action When Violation of Chapter Found.

If, at the conclusion of a hearing, the Board determines, upon the preponderance of the evidence of the record, that the respondent has violated this chapter or any applicable election law, the Board shall state and publish its findings and issue an order. Such order shall require the respondent to cease and desist from such unlawful conduct, impose such

conditions, mandates or prohibitions on any violator as the Board determines to be appropriate and may require the respondent to take corrective action. In addition, the Board may recommend to the City Administrator the imposition of civil penalties not to exceed one thousand dollars (\$1,000.00) as defined in this chapter.

Any order of the Board may be appealed to the Circuit Court ~~of~~ for Prince George's County, Maryland within fourteen (14) days of issuance. Failure to comply with an order of the Board shall constitute a violation of this chapter subject to the penalties outlined herein.

AND BE IT FURTHER ORDAINED that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other applications of the Ordinance which can be given effect without the invalid provision or applications, and to this end, all the provisions of this Ordinance are hereby declared to be severable;

AND BE IT FURTHER ORDAINED that this Ordinance shall take effect twenty (20) days from the date of its adoption;

AND BE IT FURTHER ORDAINED that a fair summary of this ordinance shall forthwith be published twice in a newspaper having general circulation in the City and otherwise be made available to the public.

INTRODUCED by the City Council of the City of Hyattsville, Maryland, at a regular public meeting on January 9, 2017.

ADOPTED by the City Council of the City of Hyattsville, Maryland, at a regular public meeting on January 23, 2017.

Adopted: January 23, 2017

Attest: _____
Laura Reams, City Clerk

Candace B. Hollingsworth, Mayor

[] indicate deletions

 /**BOLD** indicates additions

Asterisks * * * Indicate matter retained in existing law but omitted herein

Effective Date: February 12, 2017