

CITY OF HYATTSVILLE

ORDINANCE 2020-06

An ordinance whereby the City Council amends Chapter 8 of the Hyattsville Code to change the day of the election, provide for a Vote-by-Mail election, update, reorganize, and refine Chapter 8 to improve its overall clarity and better define the City’s election policies and procedures.

WHEREAS, the Maryland Code, Local Government Article, Section 5–202, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality’s rights, property and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort, and convenience of the citizens of the municipality; and

WHEREAS, after the most recent City election, the Mayor and City Council recognized that the City’s election laws need updating to improve voter participation; and

WHEREAS, the Council recognizes that there is tremendous uncertainty about the course of the COVID-19 pandemic and that there is presently a resurgence of the disease across the globe and in many states in the United States of America; and

WHEREAS, the Council is committed to ensuring the 2021 election is accessible, secure, and safe, while minimizing, to the extent possible, the potential for exposure to COVID-19 to the voting public and City employees and election workers; and

WHEREAS, the Mayor and City Council deem it in the best interest of its citizens to create the option to conduct an election primarily by mail.

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 as follows:

**Chapter 8
ELECTIONS**

ARTICLE I

General Provisions

§ 8-1. Definitions.

§ 8-2. Powers and Duties of the Board of Supervisors of Elections.

ARTICLE II

General Election Procedures

- § 8-3. Election Day.
§ 8-4. Vote-by-Mail Election.
§ 8-45. Early Voting.
§ 8-56. Special Elections.
§ 8-67. Applications for Candidacy; Certification of Candidates; Withdrawal.
§ 8-78. Qualifications for Election Judges; Oath of Office.

ARTICLE III

City Supplemental Voter Registry

- § 8-89. Supplemental Voter Registry.
§ 8-910. Application and Procedure.

ARTICLE IV

Provisional Ballots

- § 8-1011. Eligibility for a Provisional Ballot
§ 8-1112. Application.
§ 8-1213. Locations and Procedure.
§ 8-1314. Canvass of Provisional Ballots.

ARTICLE V

Vote-by-Mail Ballots

- § 8-1415. General Provisions.
§ 8-1516. Applications for Vote-by-Mail Ballots – Non-Vote by-Mail Election.
§ 8-1617. Rejection or Approval of Applications for Vote-by-Mail Ballots – Non-Vote by Mail Election.
§ 8-1718. Specific Provisions for Vote-By-Mail Election.
§ 8-1819. Form and Contents of Vote-by-Mail Ballots and Related Materials.
§ 8-1920. Assistance in Marking Vote-by-Mail Ballots.
§ 8-2021. Delivery of Completed Vote-by-Mail Ballots.
§ 8-2122. Procedure for Canvassing Vote-by-Mail Ballots.
§ 8-23. Records and Retention of Ballots and Related Materials.

ARTICLE VI

Campaign Material and Other Persuasive Election Material

- § 8-2224. Authority Lines.
§ 8-2325. Posting Campaign Materials.

ARTICLE VII

Campaign Finance

- § 8-24~~26~~. Appointment of a Treasurer.
§ 8-25~~27~~. Duties and Authority of a Campaign Treasurer.
§ 8-26~~28~~. Reports Required.
§ 8-27~~29~~. Filing Reports.
§ 8-28~~30~~. Form and Contents of Reports.
§ 8-29~~31~~. Review of Reports; Financial Advisors.
§ 8-30~~32~~. Campaign Accounts.
§ 8-31~~33~~. Restrictions on Campaign Contributions.
§ 8-32~~34~~. Restrictions on the Use of Campaign Funds.
§ 8-33~~35~~. Investigation of Campaign Finance Violations.

ARTICLE VIII

Complaints

- § 8-34~~36~~. Scope of Duty and Authority.

ARTICLE IX

Enforcement, Prohibited Conduct, Penalties and Appeals

- § 8-35~~37~~. Enforcement.
§ 8-36~~38~~. Prohibited Conduct.
§ 8-37~~39~~. Penalties.
§ 8-38~~40~~. Appeals.

ARTICLE I

General Provisions

§ 8-1. Definitions.

As used in this chapter, the following terms have the meanings indicated:

Board: Board of Supervisors of Elections for the City.

Campaign funds: Money that is contributed or loaned to a candidate.

Campaign material: 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.

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

2 Contribution: A donation, grant, or gift, or a promise to make a donation, grant, or gift, whether
3 money or in-kind, to any candidate or representative, with exception to certain loans as set forth
4 in this Chapter.

5 Contributor: Any person who makes a contribution.

6 Corporation: Any organization or entity that is formed or organized under the laws of Maryland,
7 the United States, or any other state or foreign government.

8 Domestic Partner: Means an individual who is in a “domestic partnership” with another person
9 that meets the requirements set forth in Maryland Code, § 6-101 of the Health--General Article,
10 which may be amended from time to time.

11 Early voting day: A day close to, but in advance of, Election Day on which the City Council has
12 authorized the polls to be open to qualified voters (referred to in the Charter, § C4-9 as “advance
13 voting day”).

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

16 Election Day: The day on which voting for the offices of Mayor and Council and any other
17 included referenda is regularly scheduled to occur as set forth by the City Charter and § 8-3 of
18 this Chapter, which does not include special elections or early voting days.

19 Expenditure: Any transfer, disbursement, or promise of money or valuable thing, to include in-
20 kind expenditures, by a candidate, treasurer, or other agent of a candidate to promote or assist in
21 the promotion of the success or defeat of a candidate or proposition submitted to a vote at any
22 election.

23 Financial institution: Any bank licensed to receive deposits and make loans which is insured by
24 the Federal Deposit Insurance Corporation or a credit union insured by the National Credit Union
25 Insurance Fund.

26 In-kind contribution: The fair market value, which shall be the usual and normal charge of
27 anything of value other than direct contributions of money including goods, or services for which
28 the contributor normally charges, and payments made on behalf of a candidate, except that
29 volunteering the contributor’s own time or use of a personal vehicle to a campaign shall not
30 constitute an in-kind contribution.

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

35 Report: A report of expenditures, loans, and contributions received by any candidate.

Surplus campaign funds: Unexpended funds contributed to a candidate that remain after the election is certified and all campaign debts, including all loans, have been paid.

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

Vote-by-Mail: 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.

§ 8-2. Powers and Duties of the Board of Supervisors of Elections.

A. Assistance from City Staff. In addition to any power, duty, or responsibility provided in the City Charter, the Board may obtain the assistance and support of City staff, with the approval of the City Administrator, to aid the Board in its official duties.

B. Administration and record-keeping. In addition to any power, duty, or responsibility provided in the City Charter, the Board shall have the authority to direct the City Clerk in:

(1) Issuing and maintaining all election records in a separate filing system provided by the City; and

(2) Keeping, maintaining, administering, and updating the City Supplemental Voter Registry and accepting, examining and, as appropriate, approving registration applications for the Supplemental Voter Registry.

C. Campaign finance. The Board shall have authority to provide, receive, and review campaign reports, and certify that campaign reports are timely and complete as outlined in this Chapter, and the Board may delegate some or all of these responsibilities.

D. Election duties. In addition to any power, duty, or responsibility provided in the City Charter, the Board shall:

(1) Provide for the nominations for elected City officers;

(2) Verify the eligibility of election candidates and certify eligible candidates;

(3) Select and train election judges to assist in the operation of the polling places for City elections;

(4) Issue the official election ballot;

(5) Provide a form for the certificate of polling place challengers and watchers;

(6) Provide for voting by Vote-by-Mail ballot and provisional ballot;

(7) Prescribe and print or obtain all necessary election forms and related materials in sufficient time for their respective use, including applications for candidacy, Vote-by-Mail applications, Vote-by-Mail ballots, voter instructions, ballot envelopes, and related affidavits and statements as the Board deems necessary;

(8) Oversee the operations of the polling places;

(9) Validate the authenticity of returned Vote-by-Mail ballots and completed provisional ballots;

(10) Certify all election results; and

(11) Provide for recount of ballots.

E. Enforcement and review. In addition to any power, duty, or responsibility provided in the City Charter, the Board shall:

(1) Administer and enforce all election laws;

(2) Conduct administrative review of complaints as set forth in Article VIII of this Chapter; and

(3) Delegate the investigation and review of violations of Article VII to the City Ethics Commission per Chapter 10, § 10-1 of the City Code.

ARTICLE II

General Election Procedures

§ 8-3. Election Day.

Elections, other than special elections, shall be held on the ~~first~~ second Tuesday in May of each year an election for Mayor and/or Council regularly occurs. Polls shall be open to qualified voters and public notice provided in accordance with C4-9 of the City Charter.

§ 8-4. Vote-by-Mail Election.

A. City elections may utilize vote-by-mail ballot voting.

B. The Council may determine by resolution whether vote-by-mail ballot voting shall be the primary means of voting. In the event the Council determines that vote-by-mail ballot voting shall be the primary means of voting, such an election shall be called a “vote-by-mail election.”

C. In a mail-in ballot election, at least one polling location shall be kept open on election day for in-person voting. The Board of Elections shall keep any such polling location open from 7:00 a.m. to 8:00 p.m. on election day.

§ 8-4~~5~~. Early Voting.

A. The City Council or Board may provide for one or more early voting days in any election.

B. Any early voting day shall be held no more than fifteen (15) days prior to the Election Day established in § 8-3 of this Article.

1 C. On a designated early voting day, the polls shall be open to qualified voters at the times and
2 places specified and advertised by the Board, which shall be open a minimum of eight (8) hours
3 if early voting is conducted on a Saturday and at least four (4) hours if early voting is conducted
4 on any other day of the week.

5 **§ 8-56. Special Elections.**

6 A. Generally. In addition to regularly scheduled elections, other special elections shall be held
7 to resolve tie votes in any election and/or to fill vacancies that arise a substantial amount of
8 time before the next regularly scheduled election, which shall be conducted pursuant to this
9 Section.

10 B. Runoff elections.

11 (1) If, in any election directed by the Charter, any two (2) or more candidates for the office
12 of Mayor or Councilmember who have received the highest number of votes receive an equal
13 number of votes, or the vote upon any binding referendum results in a tie, a runoff special
14 election between these candidates and/or tied referenda shall be ordered and conducted by
15 the Board.

16 (2) Any runoff special election required by Paragraph (1) of this Subsection shall be held
17 within seventy-five (75) days of the election in which the tie vote occurred, shall include
18 those offices for which the equal number of votes was cast or referendum questions which
19 resulted in a tie vote.

20 C. Special elections to fill vacancy.

21 (1) If, at any point the office of Mayor and/or one or more seats on the Council become
22 vacant, the Board shall, at the direction of the Council, conduct a vacancy special election to
23 fill the vacancies.

24 (2) Except as provided in the City Charter, any special election shall be held within
25 seventy-five (75) days of the date the vacancy was created.

26 (3) Notwithstanding any other provision of this Subsection, no special election to fill a
27 vacancy shall be held if the special election can be conducted on any day that is within one
28 hundred fifty (150) days of any regularly scheduled City election, and the office shall remain
29 vacant until the regularly scheduled City election.

30 D. Combination special elections. If, in the event that an additional seat on the Council
31 becomes vacant after a general election, but before a necessary runoff special election is held
32 pursuant to Subsection (B) of this Section, the Board may extend the time for the runoff special
33 election to any day within seventy-five (75) days of the date the vacancy was created and both
34 the runoff and the vacancy elections shall be conducted at the same time.

§ 8-67. Applications for Candidacy; Certification of Candidates; Withdrawal.

A. All individuals wishing to have their name included on a ballot as a candidate for the offices of Mayor or Councilmember shall:

(1) file an application for candidacy on a form prescribed by the Board on or before 5:00 p.m. on the last Friday in March in the year that the election is to be held;

(2) comply with any financial disclosure requirements of Chapter 10, § 10-9 of the City Code.

B. The Board shall timely review all applications for candidacy and conduct any necessary investigations to determine the eligibility of each applicant for candidacy, including verifying that candidates are residents of the City.

C. The Board may refuse to certify for candidacy any individual who, in any previous election, failed to file all reports required by this Chapter or has repeatedly or consistently failed to observe required election procedures.

D. The Board shall consider any mitigating circumstances in ruling on whether to certify an application for candidacy.

E. Candidates may withdraw their candidacy at any time on or before the Monday following the filing deadline for applications for candidacy set forth in this Section. Any candidate who withdraws shall file a disposition of funds report.

§ 8-78. Qualifications for Election Judges; Oath of Office.

A. All Election Judges appointed by the City Council or by the Board shall be registered voters of the City.

B. All persons listed in Subsection (A) of this Section shall, before engaging in their duties, take the oath set forth in § C12-1 of the City Charter and Article I, § 9 of the Maryland Constitution.

ARTICLE III

City Supplemental Voter Registry

§ 8-89. Supplemental Voter Registry.

A. The City Clerk shall maintain a supplemental voter registry of qualified voters who are not registered to vote pursuant to the State Universal Registration Act at the direction of the Board.

B. Any person qualified to vote in a City election and who is not registered to vote pursuant to the State Universal Registration Act is eligible to register for the City Supplemental Voter Registry.

1 C. Upon satisfaction of the application requirements as set forth in this Article, the City Clerk
2 shall register the applicant on the City Supplemental Registry unless otherwise directed by the
3 Board.

4 **§ 8-910. Application and Procedure.**

5 A. Any qualified person who wishes to be placed on the City Supplemental Voter Registry
6 shall complete and submit an application to the Board.

7 B. Each City Supplemental Voter Registry application shall include, and each applicant shall
8 be required to provide:

9 (1) the applicant's full name;

10 (2) the address of the applicant's primary residence;

11 (3) a declaration that the applicant meets the qualifications to vote in a City election as set
12 forth in § C4-1 of the City Charter;

13 (4) a statement executed under the penalties of perjury declaring that all of the information
14 included in the application is true to the best of the applicant's knowledge; and

15 (5) the applicant's signature.

16 C. In addition to the statements set forth in Subsection (B) of this Section, applicants are
17 required to show proof of identity, age, and residency within the City.

18 D. Notwithstanding Subsection (C) of this Section, if the applicant is unable to provide
19 sufficient documentary proof, the Board shall waive one or more of those requirements if the
20 applicant provides an additional affidavit executed under the penalties of perjury, stating that
21 the applicant does not currently possess documentation that could be used to prove identity,
22 age, and/or residency.

23 **ARTICLE IV**

24 **Provisional Ballots**

25 **§ 8-1011. Eligibility for a Provisional Ballot.**

26 An individual is eligible to cast a provisional ballot if:

27 A. The individual declares in a written affirmation under oath submitted with the provisional
28 ballot that the individual is a registered voter in the State or the City and is eligible to vote in
29 that election; and

30 B. (1) The individual's name does not appear on the City's election register or list of voters; or

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

1 **§ 8-~~11~~12. Application.**

2 Before an individual may cast a provisional ballot, the individual shall:

3 A. Complete and sign the provisional ballot application prescribed by the Board of Supervisors
4 of Elections; and

5 B. Be provided a data sheet on how the individual may obtain information on whether the
6 provisional vote was counted or not counted and the reasons therefore.

7 **§ 8-~~12~~13. Locations and Procedure.**

8 A. An eligible voter who completes an application shall be issued and may cast a provisional
9 ballot at a polling location on Election Day or at an early voting location during early voting.

10 B. When cast, a provisional ballot shall either be enclosed in an envelope and secured in a
11 locked box designated for such ballots or stored in an electronic format as specified by the
12 Board.

13 **§ 8-~~13~~14. Canvass of Provisional Ballots.**

14 A. The Board shall adopt regulations regarding the handling and canvassing of provisional
15 ballots.

16 B. The envelope of a provisional ballot shall not be opened until the Board has approved the
17 provisional ballot application for that ballot.

18 C. The Board may not reject a provisional ballot except by unanimous vote.

19 D. The Board shall reject a provisional ballot if:

20 (1) The individual is not qualified to vote in the election;

21 (2) The individual failed to sign the oath on the provisional ballot application;

22 (3) The individual cast more than one (1) ballot for the same election; or

23 (4) The provisional ballot is marked by an identifying mark that is clearly evident and can be
24 used to identify the ballot.

25 E. The Board shall establish a system that permits individuals who have cast provisional ballots
26 to determine whether their ballot was counted.

ARTICLE V

Vote-by-Mail Ballots

§ 8-1415. General Provisions.

A. Any person qualified to vote in any election may use a Vote-by-Mail ballot pursuant to the provisions of this Article.

B. Subject to the provisions set forth in § 8-145, ~~E~~ C, voters that have applied for and received a Vote-by-Mail ballot may only vote in that election by Vote-by-Mail ballot and are prohibited from voting in person at any polling place for that election.

~~E~~C. Voters may choose to Vote-by-Mail permanently by completing the required form provided by the City Clerk's office. The form must be submitted to the City Clerk no less than 10 days before any City election. The City Clerk shall maintain a list of all permanent Vote-by-Mail voters. Any permanent Vote-by-Mail voter may revoke their status as a permanent Vote-by-Mail voter at any time. The City Clerk shall remove from the list any permanent Vote-by-Mail voter who has not voted in two consecutive election cycles.

~~B~~ D. No Vote-by-Mail ballot, completed or otherwise, shall be handled or delivered by a candidate or any individual volunteering or working for a candidate, except for their own ballot or that of their immediate family member or a member of their household.

~~F~~ E. No person may cast a vote using a Vote-by-Mail ballot that was issued by the City for another person.

F. A qualified voter may obtain a replacement Vote-by-Mail ballot if the original ballot was destroyed, spoiled, lost, or for any other reason not received by the registered voter. A qualified voter who obtains a ballot in accordance with this paragraph will be required to sign an affidavit, in a form approved by the Board, specifying the reason for requesting the replacement ballot.

G. If the election is a Vote-by-Mail election as set forth in § 8-4, the following sections of this Article are not applicable: § 8-15B and C, § 8-16 and § 8-17.

H. Section 8-18 of this Article does not apply unless an election has been declared a Vote-by-Mail election pursuant to § 8-4.

§ 8-1516. Applications for Vote-by-Mail Ballots– Non-Vote by-Mail Election.

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

B. A qualified voter desiring to vote at any election with a Vote-by-Mail ballot shall make an application, in writing, to the Board prior to the deadline established in Subsection (D) of this Section.

C. Applications for Vote-by-Mail ballots shall include the following:

- (1) the applicant's name and residence address, including the street and number;
- (2) a statement indicating that the applicant is a qualified voter at the residence address given;
- (3) whether the ballot should be held for pick-up at the City Municipal Building or mailed to the applicant, and if mailed, the address to which the ballot is to be delivered if different from the applicant's resident address;
- (4) an affidavit executed under the penalties of perjury stating that all of the information included in the application is true to the best of the applicant's knowledge; and
- (5) the applicant's signature.

D. Application deadlines.

- (1) Applications that request a ballot be held for pick-up at the City Municipal Building shall be filed with the Board no later than 10:00 a.m. on the last day the City offices are open for regular business before Election Day.
- (2) Applications that request delivery of a ballot by mail shall be filed with the Board no later than the close of business ten (10) days prior to Election Day.

§ 8-1617. Rejection or Approval of Applications for Vote-by-Mail Ballots – Non-Vote by Mail Election.

A. Review of applications.

- (1) The Board shall review and approve or reject all Vote-by-Mail applications as soon as reasonably practicable and without delay.
- (2) All applications that request delivery of a Vote-by-Mail ballot by mail shall be approved or rejected no later than seven (7) days prior to Election Day.

B. Rejection of applications.

- (1) The Board shall reject any application for a Vote-by-Mail ballot if:
 - (a) the application is not filed before the applicable deadline;
 - (b) the application is missing any of the information required by § 8-15 of this Article;
 - (c) the applicant is not eligible to vote;
 - (d) the Board has already granted a previous application filed by that applicant; or
 - (e) the voter has already voted in person on an early voting day.

(2) The Board may not reject the Vote-by-Mail application of any person except by unanimous vote.

(3) If a Vote-by-Mail application is rejected, the Board shall promptly notify the applicant of the reason(s) therefore.

C. Approval of applications; delivery of Vote-by-Mail ballots.

(1) If an application is not rejected under Subsection (B) of this Section, the Board shall, as soon as reasonably practicable, mail the applicant's ballot or make the ballot available for pickup at the office of the Board if the applicant so indicated on their application.

(2) The Board shall mail all ballots that approved applicants have requested to be delivered by mail no later than seven (7) days prior to Election Day.

(3) If the applicant is entitled to free postage privileges under any federal law, rule, or regulation, the Board shall take full advantage of these privileges.

(4) Not more than one (1) Vote-by-Mail ballot may be mailed or provided to any applicant unless the Board has reasonable grounds to believe that the Vote-by-Mail ballot previously mailed has been lost, destroyed, or spoiled.

(5) Upon the mailing or delivery of a Vote-by-Mail ballot, the Board shall:

(a) remove the approved applicant's voter record card from the precinct binder and place it in a separate binder marked "Registered Vote-by-Mail Voters," which shall be retained in the office of the City Clerk; and

(b) place a marker in the regular precinct binder that indicates the voter's name, that a Vote-by-Mail ballot has been mailed or delivered, and the date on which the ballot was sent or delivered.

§ 8-18. Specific Provisions for Vote-By-Mail Election.

A. Vote-by-Mail ballots for the election must be mailed or distributed no more than forty-five (45) days and no less than thirty (30) days prior to the election to which they apply. Postage for transmitting the ballot material to the voter and postage for the return of ballots shall be paid by the Board.

B. The Board will mail one (1) notice to all households in the City and at least three (3) notices and reminders to all qualified voters in the City informing them of the Vote-by-Mail ballot voting deadlines and the date, time, and location of the in-person voting on election day. The first notice will be mailed or distributed no later than ninety (90) days prior to the election. The notices will be in addition to the mailing of the ballot itself. The Board will also provide at least one (1) other form of mass communication informing the public of the City election which must include all of the information required on the notices.

1 **§ 8-~~18~~19. Form and Contents of Vote-by-Mail Ballots and Related Materials.**

2 A. The Board shall prescribe the size, form, arrangement, and printed contents of Vote-by-Mail
3 ballots, except that all such ballots shall:

4 (1) be in paper form;

5 (2) display the heading “Vote-by-Mail Ballot” printed in large letters in a clear space at the
6 top of each paper ballot;

7 (3) display the following instructions printed in large letters in a clear space below the ballot
8 heading: “Mark ballot by placing X in proper blank after each candidate or question. Do not
9 erase or make identifying marks.”;

10 (4) clearly display the applicable election ward;

11 (5) list candidates by office and then alphabetically by last name within each office; and

12 (6) list referendum questions following the listing of candidates for all offices.

13 B. The Board shall prescribe the size, form, arrangement, and printed contents of the following
14 materials, which shall be included with every Vote-by-Mail ballot:

15 (1) Vote-by-Mail ballot material envelopes, providing for a covering envelope, a ballot
16 envelope, and a return envelope;

17 (2) printed instructions for the marking and casting of Vote-by-Mail ballots; and

18 (3) a certification of assistance form.

19 **§ 8-~~19~~20. Assistance in Marking Vote-by-Mail Ballots.**

20 A. Any qualified voter who is unable to mark their own ballot due to a physical disability may
21 receive assistance in marking a Vote-by-Mail ballot.

22 B. Any person assisting another voter in the marking of a Vote-by-Mail ballot shall complete the
23 required certification of assistance included with the ballot, which shall be executed under the
24 penalties of perjury and returned with the completed ballot.

25 **§ 8-~~20~~21. Delivery of Completed Vote-by-Mail Ballots.**

26 Completed Vote-by-Mail ballots may be delivered:

27 A. by mail to the address designated by the Board; or

28 B. by hand to any of the following:

29 (1) the City Clerk’s office during normal business hours;

(2) the Board or a chief election judge during voting hours at any polling place on any Election Day or early voting day; or

(3) the Board at any other place and time designated by the Board.

§ 8-2122. Procedure for Canvassing Vote-by-Mail Ballots.

A. Time for opening or unfolding ballots. The Board shall not open or unfold any Vote-by-Mail ballot at any time before the closing of the polls and the beginning of the canvass of the ballots.

B. Procedure generally.

(1) 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 City Municipal Building and shall proceed to count, certify, and canvass the Vote-by-Mail ballots contained in the ballot envelopes received before the closing of the polls on Election Day.

(2) This canvass shall be conducted by ward in accordance with the applicable provisions of § C4-11 of the City Charter.

(3) All Vote-by-Mail voters' applications, certifications, ballot envelopes, and ballots shall be kept separate and apart from other ballot types and election materials.

(4) Before opening any ballot, the Board shall inspect the ballot and determine the following:

(a) that the provisions for filling out and signing the oath on the outside of the ballot envelope have been substantially complied with;

(b) that the voter is entitled to vote under this Chapter in a ward of the City; and

(c) that the voter has not already voted on Election Day.

(5) If the Board is satisfied that a ballot meets all of the criteria set forth in Paragraph (4) of this Subsection, the Board shall open the ballot envelope, remove the ballot therefrom, place the ballot in a Vote-by-Mail ballot box, and enter in the appropriate register the fact that the voter whose name appears thereon has voted, using the initials "VBM" to indicate the vote has been by a Vote-by-Mail ballot.

C. Rejection of Vote-by-Mail ballots.

(1) The Board may reject a Vote-by-Mail ballot only by unanimous vote of the entire Board.

(2) Vote-by-Mail ballots may be marked by any kind of ~~pencil or~~ ink so long as it permits the Board to ascertain the voter's unambiguous choices.

(3) Vote-by-Mail ballots shall be rejected and not counted if:

(a) the ballot was received by the Board after the closing of the polls on Election Day;

(b) the voter's oath is not sufficiently executed;

(c) there is more than one (1) ballot in the ballot envelope, in which case all shall be rejected;

(d) the ballot was cast by a person not eligible to vote;

(e) the voter has already voted in person;

(f) the voter has marked more choices than is permissible for a specific contest or the ballot is marked in a manner that makes the voter's choice(s) ambiguous, in which case the Board shall invalidate only the vote(s) for the specific contest(s) that are improperly or ambiguously marked and shall not invalidate the remainder of the ballot, which shall be counted, certified, and canvassed unless rejected for another reason;

(g) the Board receives from the same person before the closing of the polls on election day more than one (1) Vote-by-Mail ballot, in which case the Board shall count, certify, and canvass only the Vote-by-Mail ballot with the earliest date and the other shall be rejected, or, if both are undated or dated the same, both ballots shall be rejected;

(h) the ballot contains a vote for a person who has ceased to be a candidate, in which case the Board shall invalidate only that vote for that specific contest and shall not invalidate the remainder of the ballot, which shall be counted, certified, and canvassed unless rejected for another reason; and/or

(i) the Board determines that the voter has died before Election Day as set forth in Subsection (D) of this Section.

D. Death of a Voter.

(1) Whenever the Board determines from proof of investigation that any person who has cast a Vote-by-Mail ballot has died before Election Day, the Board shall not count the ballot of the deceased voter, but it shall be preserved with the rest of the canvassed ballots pursuant to § 8-21 of this Article.

(2) Notwithstanding Paragraph (1) of this Subsection, if, at or before the time of counting and canvassing, the Board has not determined that a person who cast a Vote-by-Mail ballot had died before Election Day, that voter's ballot shall be counted, and the fact that the voter may later be shown to have been actually dead on Election Day shall not invalidate the ballot or the election.

§ 8-23. Records and Retention of Ballots and Related Materials.

A. The Board shall keep, pursuant to the City's Record Retention Policy, a record of Vote-by-Mail applications and shall retain Vote-by-Mail ballots, ballot envelopes, certifications and applications received.

1 B. The records retained pursuant to this Section shall be made available for examination by
2 any registered voter or as the Maryland Public Information Act or other State or federal law
3 may require or prohibit such disclosure.

4 **ARTICLE VI**

5 **Campaign Material and Other Persuasive Election Material**

6 **§ 8-2224. Authority Lines.**

7 A. Except as otherwise provided in this section, each item of campaign material shall contain
8 an authority line, set apart from any other message, that states the name, title, and address of
9 the person responsible for the publication or distribution of the same, except that an address
10 need not be included if the responsible person is registered with the City Clerk.

11 B. Any material that is published or distributed in support of, or in opposition to, a candidate,
12 referendum, or election question without being directly or indirectly authorized by the
13 candidate as provided in this Section shall include the following statement: "Authorized and
14 paid for by (name of payer or any organization affiliated with the payer). This message has not
15 been authorized or approved by any candidate."

16 C. The provisions of this Section apply to all campaign materials, including those that are
17 distributed and published electronically and through social media.

18 D. Notwithstanding any other provision in this Section, material need not contain an authority
19 line if the item is too small to include all the information required by this Section in a legible
20 form, except that reasonable effort shall be made to include as much legible information as
21 possible, even if in truncated form.

22 **§ 8-2325. Posting Campaign Materials.**

23 The posting or display of campaign materials, including, but not limited to, signs, clothing,
24 flyers, and other displays, shall be conducted in compliance with any applicable federal,
25 state, and local laws.

26 **ARTICLE VII**

27 **Campaign Finance**

28 **§ 8-2426. Appointment of a Treasurer.**

29 A. Each candidate shall appoint one (1) treasurer and shall file the name and address of the
30 treasurer, together with the treasurer's acceptance of the appointment in writing, on a form
31 provided by, and returned to, the City Clerk prior to the filing deadline for candidacy set forth
32 in § 8-6 of this Chapter.

33 B. In the event of the resignation of an appointed treasurer, the candidate must immediately

1 inform the Board and shall within seventy-two (72) hours appoint a new treasurer and so
2 inform the Board in writing.

3 C. A candidate may serve as treasurer so long as the candidate has not received total
4 contributions of more than one thousand dollars (\$1000.00), excluding contributions to a
5 candidate's campaign if made by a candidate or the candidate's spouse or domestic partner.

6 D. In the event the contributions exceed the amount in Subsection (C) of this Section, the
7 candidate must, within two (2) days, report such to the City Clerk, appoint a treasurer, and file
8 the appropriate form(s).

9 E. The Board or the Clerk shall promptly send a written notice to any candidate who is required
10 to appoint a treasurer but who fails to do so. Such notice shall also be posted on the City's
11 website and on the City's bulletin board.

12 **§ 8-2527. Duties and Authority of a Campaign Treasurer.**

13 A. All campaign assets shall be delivered to, and maintained by, a candidate's treasurer.

14 B. No campaign assets may be disbursed or disposed of by any person other than the treasurer.

15 C. Treasurers are responsible for timely filing reports as required by this Chapter.

16 D. The duties of a treasurer may not be transferred or delegated to another person, except that
17 a candidate may simultaneously be a candidate and serve as treasurer pursuant to § 8-24(C) of
18 this Article.

19 **§ 8-2628. Reports Required.**

20 A. The treasurer for each candidate for the office of Council or Mayor, or the candidate serving
21 as their own treasurer, shall file reports in accordance with this Article.

22 B. The City Clerk shall make all reports and/or affidavits filed pursuant to this Article available
23 for examination by any member of the public.

24 C. Any report filed with the City as required by this Chapter shall also be filed with the State
25 Board of Elections as required by State law, including pursuant to Maryland Code, § 4-108.2
26 of the Local Government Article, which may be amended from time to time.

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

30 **§ 8-2729. Filing Reports.**

31 A. Reports required by this Article shall be filed pursuant to the following schedule:

32 (1) Initial Report: An initial report shall be filed on the twenty-first (21st) day proceeding
33 Election Day.

(2) Second Report: A second report shall be filed on the seventh (7th) day preceding Election Day.

(3) Annual Reports: An annual report shall be filed on or before the first Tuesday in September of each year until the cash balance, unpaid bill(s), or deficit is eliminated and a final annual report reflecting the disposition of funds is filed with the City Clerk's Office per § 8-32.

(4) Corrected Reports: Corrected reports shall be filed in the time frame established in § 8-29(B) of this Article.

B. Reports must be filed with the office of the City Clerk by 1:00 p.m. on the day they are due.

C. The City Clerk shall promptly send a written notice to any candidate and the candidate's treasurer who fails to timely file a campaign finance report. Such notice shall also be posted on the City's website and on the City's bulletin board.

§ 8-2830. Form and Contents of Reports.

A. All reports shall be made on forms or in a format provided by the City Clerk and approved by the City Attorney.

B. Each report shall include the information set forth in Subsection C of this Section that occurred during the following time frames:

(1) The initial report shall include information from the preceding election, or the most recent annual report, if applicable, up to and including the full day before the filing of the initial report.

(2) All other reports shall include information starting from the full day that the previous report was filed up to and including the full day before the filing of the current report.

C. Each report filed shall include:

(1) the total and individual amounts of all contributions the candidate or candidate's treasurer received;

(2) the total and individual amounts of all expenditures which the candidate or candidate's treasurer, or any person acting on their behalf made;

(3) receipts and/or other documentation for all expenditures reported, which shall include dates, amounts, and information to identify each contributor and recipient of funds;

(4) the total and individual amounts of all loans the candidate or candidate's treasurer received;

(5) documentation indicating the nature, terms, and status of each loan; and

(6) any balance from the prior reporting period.

1 D. Notwithstanding any other provision in this Article, a report need not itemize the campaign
2 contributions made by the candidate or the candidate's spouse or domestic partner but may
3 aggregate these contributions under one line or total.

4 E. Unless otherwise provided by the Board, all reports shall be executed under the penalties of
5 perjury by the treasurer of the candidate or by the candidate if the candidate is not required to
6 have a treasurer.

7 **§ 8-2931. Review of Reports; Financial Advisors.**

8 A. Responsibility to ensure accurate reporting. The Board is responsible for ensuring that all
9 forms and campaign finance reports are in substantial compliance with this Chapter.

10 B. Notification and correction of deficient reporting. (1) If the Board or their designee
11 discovers a reporting inaccuracy or other deficiency in a report filed pursuant to this Article, it
12 shall notify in writing the candidate and the treasurer of the candidate, if any, and a corrected
13 report shall be filed by the treasurer within:

14 (a) forty-eight (48) hours after the City Clerk sends notice if the report to be corrected
15 was filed pursuant to Paragraphs (1) or (2) of § 8-27(A) of this Chapter; or

16 (b) seven (7) days after the City Clerk sends notice if the report to be corrected is an
17 annual report required to be filed pursuant to Paragraph (3) of § 8-27(A) of this Chapter.

18 (2) Failure to file a corrected report within applicable time established by this Subsection
19 shall render the report overdue and may result in penalties pursuant to Article IX of this
20 Chapter.

21 (3) Notwithstanding any other provision of this Subsection, if the inaccuracy or deficiency
22 in a report is de minimis or other good cause is shown, the Board may, with or without a
23 hearing, waive the inaccuracy or deficiency and the requirement to file a corrected report.

24 C. Financial advisors.

25 (1) The Board may appoint one or more individuals with some expertise in reading
26 financial statements to aid the Board in reviewing reports filed pursuant to this Article.

27 (2) The Board may direct financial advisor(s) to:

28 (a) promptly review all reports filed pursuant to this Article;

29 (b) notify the candidate, treasurer, and/or Board of any irregularities, discrepancies, or
30 errors the reports;

31 (c) recommend actions to the Board, if any.

32 **§ 8-3032. Campaign Accounts.**

33 If contributions received by a candidate exceed a total of one thousand dollars (\$1000.00), all

campaign funds must be deposited into one account opened with a financial institution and such funds shall not be commingled with any other funds or accounts.

§ 8-3133. Restrictions on Campaign Contributions.

A. Maximum contribution. No candidate or treasurer may accept from a single person, and no person may give or promise to any single candidate, contributions that total over five hundred dollars (\$500.00) per election.

B. Candidate and spouse or domestic partner contributions and loans.

(1) The contributions or loans of a candidate or the candidate's spouse or domestic partner to the candidate's own campaign shall not be subject to, or included in, the dollar limitations set forth in this Section.

(2) Any contributions or loans made by a candidate or candidate's spouse or domestic partner to the candidate's own campaign shall pass through the candidate's campaign account, if any, and be reported, however, they need not be itemized and can be aggregated under one line or total.

C. Contributions from prohibited persons. No candidate shall knowingly accept or solicit a contribution from:

(1) an anonymous contributor;

(2) a corporation, including labor unions and political committees;

(3) a person making a contribution in the name of another; or

(4) a foreign national, which includes:

(a) a person outside of the United States who is not a citizen of the United States;

(b) an individual within the United States who is not a citizen of the United States and who is not lawfully admitted for permanent residence;

(c) a government of a foreign country;

(d) a political party of a foreign country;

(e) any partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country; or

(f) any other foreign person that is prohibited from making contributions by federal law, including 52 U.S.C. § 30121 and 11 CFR 110.20, which may be amended from time to time.

1 D. If any candidate or treasurer receives a contribution prohibited by this Section, that
2 candidate shall either return the contribution to the contributor promptly or shall forfeit that
3 contribution to the City promptly, which forfeiture may be used for any public purpose.

4 E. Campaign loans.

5 (1) Except as set forth in Subsection (B) of this Section, the total amount of all loans to a
6 candidate for any election shall not exceed five thousand dollars (\$5,000.00), and no one
7 person or entity may loan a candidate more than one thousand dollars (\$1000.00).

8 (2) A loan to a candidate is considered a contribution unless:

9 (a) the loan is from a financial institution or other entity in the business of making
10 loans; or

11 (b) the loan is to the candidate and repayment is personally guaranteed by the candidate
12 and is due within one year of the date of the loan.

13 (3) If the amount of interest actually charged on a loan to a candidate is less than the prime
14 rate on the day the loan is made, the difference between the actual interest charged and that
15 prime rate shall constitute a contribution.

16 (4) All campaign loans shall be documented on campaign finance reports in a format
17 provided by the City Clerk and approved by the City Attorney.

18 **§ 8-3234. Restrictions on the Use of Campaign Funds.**

19 A. Personal use of campaign funds prohibited.

20 (1) No candidate may use campaign funds for any personal use, which is an obligation or
21 expense of any person that would exist irrespective of the campaign of a candidate.

22 (2) Personal use includes, but is not limited to:

23 (a) household food items or supplies;

24 (b) clothing, other than items of de minimis value that are used in the campaign
25 (examples of de minimis campaign clothing include, but are not limited to, campaign
26 logo “T-shirts” and caps with campaign slogans);

27 (c) mortgage or rent payments for the personal residence or property of a candidate or
28 the candidate’s family;

29 (d) vacations;

30 (e) tickets or admission to entertainment, such as a concert or theater performance; and

31 (f) salary payments to a member of the candidate’s family.

1 B. Campaign funds may not be utilized in any election other than one held by the City.

2 C. Cash withdrawals are prohibited.

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

4 E. No person other than a candidate, treasurer, or other agent with specific written authorization
5 by the candidate shall make an expenditure from any campaign account.

6 F. Retention and disposition of surplus funds.

7 (1) After an election, surplus funds may be retained and may be used by the candidate in
8 any election to support the candidate's election or reelection to any City office. The
9 candidate and the candidate's treasurer shall meet all applicable requirements of this
10 Chapter with respect to maintaining and accounting for the surplus funds including, but not
11 limited to filing all annual reports.

12 (2) The candidate may also choose to dispose of surplus funds in accordance with § 8-
13 32F(2)(a)-(d).

14 (a) Returned, pro rata, to the contributors by the treasurer;

15 (b) Paid to a charitable organization registered or exempt from registration pursuant to
16 Maryland Code, Title 6 of the Business Regulation Article, which may be amended
17 from time to time;

18 (c) Paid to a local board of education or to a recognized nonprofit organization
19 providing services or funds for the benefit of pupils or teachers; and/or

20 (d) Paid to any public or private institution of higher education in the State for
21 scholarship or loan purposes.

22 (3) Except where surplus campaign funds are returned to contributors, such funds shall not
23 be converted to personal use.

24 (4) Candidates or their treasurers shall make a record of all dispositions of surplus
25 campaign funds.

26 (5) Within 30 days of the disposition of all of a candidate's surplus funds, or on or before
27 the first Tuesday in September following the complete disposition of the candidate's
28 surplus funds, whichever is earlier, the candidate or the candidate's treasurer shall file:

29 (a) an annual report as set forth in § 8-27(A)(3) and 8-28 of this Article VII; and

30 (b) an affidavit with the City Clerk stating that the campaign accounts are closed and
31 detailing how the funds were distributed.

32 (c) Within 30 days of paying off a campaign loan, a candidate shall cause to be filed an
33 affidavit stating that the loan is paid in full with supporting documentation from the

lender.

§ 8-3335. Investigation of Campaign Finance Violations.

A. Notwithstanding any other provision in this Chapter, the Board or their designee shall have concurrent jurisdiction to investigate any violations of this Article and enforce the provisions thereof, and the Board is not required to investigate or resolve matters being addressed by the City Ethics Commission.

B. The City Administrator and/or the City Clerk shall monitor and make appropriate recommendations to the Board and the Ethics Commission in the event of duplicative investigations or hearings.

ARTICLE VIII

Complaints

§ 8-3436. Scope of Duty and Authority.

A. The Board shall investigate and resolve any written complaints or contests relating to voting, the validity of any ballot, candidate certification, violations of this Chapter, or other City election matters within the authority granted to the Board by the City Charter or Code.

B. When reviewing a complaint, contest, or other potential violation within its authority pursuant to this Article, the Board has the power to:

(1) conduct a reasonable investigation;

(2) conduct one or more hearings;

(3) adopt reasonable rules and procedures for the conduct of hearings that are not inconsistent with this Article;

(4) summon concerned parties and/or necessary witnesses to hearings;

(5) dismiss a complaint;

(6) conciliate a complaint;

(7) issue orders;

(8) implement enforcement actions as provided by this Section; and

(9) extend the time for any hearing and the issuance of any finding, opinion, and/or orders.

ARTICLE IX

Enforcement, Prohibited Conduct, Penalties, and Appeals

1 **§ 8-3537. Enforcement.**

2 The Board may enforce the provisions of this Chapter by:

3 A. issuing cease and desist orders;

4 B. imposing fines as set forth in this Article;

5 C. imposing conditions, mandates, or prohibitions on any violator as the Board determines to
6 be appropriate, including requiring a violator to take corrective action;

7 D. seeking judicial enforcement of its decisions by application to courts of competent
8 jurisdiction for injunctions, mandamus, and other appropriate judicial review when conducting
9 an administrative review; and

10 E. referral of complaints to the Office of the State's Attorney for prosecution as the
11 circumstance may warrant.

12 **§ 8-3638. Prohibited Conduct.**

13 A. It is unlawful to violate any provision of this Chapter.

14 B. It is unlawful for any person to knowingly and willfully:

15 (1) sign, under oath, affirmation, and/or the penalties of perjury any application, affidavit,
16 or other document pursuant to this Chapter that contains false information;

17 (2) violate any provision of this Chapter with the intent to cast an illegal vote;

18 (3) apply for, cast, or attempt to cast a ballot, including a provisional or Vote-by-Mail
19 ballot, under any name other than their own name;

20 (4) cast or attempt to cast a Vote-by-Mail ballot that was not issued by the City for that
21 person;

22 (5) publish or distribute, for the purpose of influencing votes, any material that contains a
23 false or substantially misleading authority line;

24 (6) canvass or open any Vote-by-Mail ballot or envelope, other than their own, prior to the
25 time for canvassing set forth in Article V of this Chapter;

26 (7) accept, make, or solicit any contribution prohibited by this Chapter or State or federal
27 law;

28 (8) fail to promptly forfeit unlawful contributions as required by this Chapter or State or
29 federal law;

30 (9) use or dispose of campaign funds in violation of this Chapter or State or federal law; or

(10) handle a completed voter registration application other than the voter's own application, except that this prohibition does not apply to City, State, or Federal government officials and employees engaging in official business.

§ 8-3739. Penalties.

A. Any person who commits any violation set forth in Subsection (B) of § 8-36 of this Article, or knowingly aids or abets another in committing such a violation, shall be guilty of a misdemeanor and, upon conviction, be subject to a fine of not more than one thousand dollars (\$1000.00), imprisonment of not more than six (6) months, or both, at the discretion of the Court.

B. The Board may impose a fine of up to five hundred dollars (\$500.00) on any person who fails to:

(1) include an authority line on campaign materials, if required, that is in substantial compliance with the requirements set forth in § 8-22 of this Chapter;

(2) timely appoint a treasurer and file the correct forms as required by § 8-24 of this Chapter;

(3) promptly establish, and properly maintain, a campaign account as required by § 8-30 of this Chapter; or

(4) comply with an order of the Board.

C. The Board or its designee may impose a fine of up to five hundred dollars (\$500.00) on any candidate and/or any treasurer of a candidate if any report or affidavit required by Article VII is not timely filed.

D. The Board or its designee may impose a fine of up to one hundred dollars (\$100.00) for any violation of this Chapter, including the prohibited conduct set forth in § 8-36 of this Article, except that a person may not be fined under this Subsection if a fine or penalty is imposed under Subsections (A), (B), or (C) of this Section.

E. After notification of a violation and for each day the violation continues, the Board may impose additional fines up to the amounts indicated in Subsections (B), (C), and (D) of this Section, respectively, if an infraction set forth in those Subsections is not abated within a reasonable time.

F. The Board may impose a fine of up to two hundred dollars (\$200.00) on any person that fails to appear at a hearing after receiving a summons from the Board.

G. In addition to any other fine, penalty, or sanctions, the City Council may, after notice and a hearing, impose such censure or penalty on any person elected who has violated Article VII of this Chapter 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.

1 **§ 8-3840. Appeals.**

2 Any person who is aggrieved by any decision or action of the Board, or the City Ethics
3 Commission when it is enforcing any provision of this Chapter, shall have the right to appeal the
4 decision within thirty (3) days to the Circuit Court for Prince George's County, which shall review
5 the matter *de novo* and without a jury.

6
7 **AND BE IT FURTHER ORDAINED** that if any provision of this Ordinance or the
8 application thereof to any person or circumstance is held invalid for any reason, such invalidity
9 shall not affect the other provisions or any other applications of the Ordinance which can be given
10 effect without the invalid provision or applications, and to this end, all the provisions of this
11 Ordinance are hereby declared to be severable;

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

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

17 **INTRODUCED** by the City Council of the City of Hyattsville, Maryland, at a regular
18 public meeting on October 19, 2020.

19 **ADOPTED** by the City Council of the City of Hyattsville, Maryland, at a regular public
20 meeting on November 2, 2020.

Adopted: _____

Attest: _____
 Laura Reams, City Clerk

Candace B. Hollingsworth, Mayor

21