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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.

Administration of government - See Ch. 4.

Code of Ethics - See Ch. 10.

Peace and good order - See Ch. 87.

ARTICLE I

General Election Procedures

§ 8-1. Qualifications for Registration Officers, Clerks and Judges of Elections; oath of office.

Registration Officers and Judges and Clerks of Elections appointed by the City Council shall be registered voters of the City, and, where so required by law, they shall be registered voters of the ward for which they are appointed. They shall, before entering upon their duties, take the oath required by law for all registration and election officials.

§ 8-2. Election Day, Advance Voting Day, Absentee 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 provides for an advance voting day in any referendum or Election, unless otherwise directed the Saturday immediately before Election Day shall be the 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 such advance voting day.

C. Any person qualified to vote in the Election may vote by absentee ballot, but only pursuant to the provisions of this Article I.

§ 8-3. Absentee ballots; procedure for disabled persons; assistance in marking. [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 absentee ballot as provided in § 8-5 of this chapter. The completed application shall be filed in the office of the Board of Supervisors of Elections not later than 10:00 a.m. on the last day the City offices are open for regular business prior to Election Day. No completed application shall be handled, or delivered by a candidate or an individual volunteering or working for a candidate except for his/her own application or that of his/her immediate family member or a member of his/her household. Upon receipt of a completed application, the Board shall mail or provide to the voter entitled thereto an 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 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 absentee voter form.

§ 8-4. Applicability. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89]

This chapter applies to elections for all candidates, constitutional amendments and other questions at any election held in any year in the City of Hyattsville.

§ 8-5. Contents of application for 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 absentee voter shall make an application, in writing, to the Board for an 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 voted.
- D. The address to which the ballot is to be mailed, if different from the resident address.

§ 8-6. Application form for 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 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 absentee registration and ballot, application for absentee ballot by registered voter, and related affidavits and statements for consideration and approval by the Mayor and City Council.
- C. The application for absentee voters shall be in the following form:

Application for Absentee Ballot

(Date)To the Board of Supervisors of Elections of City of Hyattsville, Maryland, I, (print name), hereby apply for a City of Hyattsville absentee ballot for the election to be held on (date of election). My home address; is (number and street), in the City of Hyattsville. I am a registered voter in the City of Hyattsville, and my voting ward is _____. I desire that the absentee ballot be sent to me at the following address: _____

(sign name)

Warning! The Absentee Voting Law provides that anyone who willfully signs any false application or oath or who willfully does any act contrary to the terms and provisions of the Absentee Voting Law with intent to cast an illegal vote or to aid another in doing so or who willfully violates any of the provisions of that law or who applies for a ballot under any other name than his/her own shall, upon conviction, be subject to a fine of not more than five hundred dollars (\$500.00) or to imprisonment for not more than ninety (90) days, or to both, in the discretion of the court.

An absentee ballot will not be sent to you unless you are registered to vote in elections in Prince George's County and are qualified to vote in this City.

§ 8-7. 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 at the election.

B. Delivery of ballot. If the applicant is a qualified voter as stated in his/her affidavit, the Board shall, as soon as practical thereafter, deliver to him/her at the office of the Board or mail to him/her at an address designated by him/her an absentee voter's ballot. If the applicant is one with respect to whom free postage privileges are provided for by the Federal Voting Assistance Act of 1955 or 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. All investigations shall be concluded and any determinations made as to all absentee ballot applications not later than the deadline for applications stated in Section 8-3 above.

C. Record of applications received and ballots delivered.

(1) The Board shall keep a record of applications for absentee voters' ballots as they are received; showing the date and time 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 absentee ballot and the mailing/delivery to the applicant of an absentee ballot, then the voters record card in the precinct binder shall be removed and placed in a separate binder marked "registered 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 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) absentee ballot shall be mailed to any one (1) applicant unless the Board has reasonable grounds to believe that the absentee ballot previously mailed has been lost, destroyed or spoiled.

§ 8-8. Form and contents of absentee ballots. [Added 5-3-76; Amended 2-6-89 by HB No. 1-89]

A. Printing of ballots for absentee voters, envelopes and instructions. In sufficient time prior to 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 absentee voters as set out in § 8-9 of this chapter.

B. Absentee ballots, in the discretion of the Board, will be in the form of paper ballots. The form and arrangement of all 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 “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 absentee ballot material envelopes, providing for a covering envelope, a ballot envelope and a return envelope.

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

A. The printed instructions for the casting of absentee ballots shall be prescribed by the Board of Supervisors of Elections, and it shall prescribe instructions for paper ballots.

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

C. 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.

§ 8-10. Procedure for counting and canvassing 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 absentee ballot at any time prior to 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 absentee ballots contained in the ballot envelopes received by it prior to 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 absentee 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 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 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 Election 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 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 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 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 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 therefrom and place it in an 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 "AB" to indicate the vote has been by absentee ballot. If there is more than one (1) ballot in the ballot envelope, all shall be rejected. 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 the closing of the polls on Election Day more than one (1) absentee ballot, it shall count, certify and canvass only the 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.

§ 8-11. 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.

§ 8-12. 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 Councilman who have received the highest number of votes shall have received an equal number of votes, or the vote upon any 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 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.

§ 8-13. Penalty. [Added 2-20-07 by HO-2007-03]

Anyone who willfully signs any false application or oath or who willfully does any act contrary to the terms and provisions of the absentee voting law with intent to cast an illegal vote or to aid another in doing so or who willfully violates any of the provisions of this Chapter or who applies for a ballot under any other name than his/her own name shall be guilty of a misdemeanor and, upon conviction, be subject to a fine of not more than five hundred dollars (\$500.00) or to imprisonment for not more than ninety (90) days, or to both, in the discretion of the court.

§ 8-14. 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.

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 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 five hundred dollar (\$500.00) fine and/or imprisonment for thirty (30) days.

§ 8-14.1. 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 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.

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 shall list individually each contribution and expenditure of more than one hundred dollars (\$100.00) in furtherance of the candidate's nomination and election. The reports shall also include a total amount of all contributions and expenditures including those of one hundred dollars (\$100.00) or less.

B. Unless otherwise provided, any report as described in (A) above 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. 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.

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

D. 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.

§ 8-16. Deadline for filing reports.

A. **Initial Report**- an initial report shall be filed on the 10th day preceding the election including all reportable contributions and expenditures made since the last preceding election.

B. **Final Report**- a final report shall be filed on the 7th day following the election and shall include all such contributions and expenditures made during the election.

C. **Further Reports** -if a final report reflects a cash balance, unpaid bills or a deficit greater than five hundred dollars (\$500.00), an annual report shall be filed on or before December 31, 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 by 5:00 p.m. of the day they are due.

§ 8-17. Form; affirmation of report.

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.

§ 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.

§ 8-19. Appointment of Campaign Treasurer.

A. Each candidate shall appoint one campaign treasurer and shall file the name and address of the campaign 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 the election.

B. A candidate may serve as the treasurer for his/her own campaign so long as the candidate has not received and does not intend to receive a total of reportable contributions more than fifteen hundred dollars (\$1,500.00) excluding contributions by the candidate or the candidate's spouse/ domestic partner.

C. In the event the contributions exceed the amount in subsection (b) immediately above, the candidate must report such to the clerk, 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 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 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 Clerk is sent shall render the report overdue.

§ 8-21. 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.

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 candidates 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.