

**CITY OF NEWARK  
DELAWARE  
BOARDS AND COMMISSIONS REVIEW COMMITTEE  
MEETING AGENDA**

**October 27, 2015 – 7:00 PM  
Council Chamber**

1. Call to Order
2. Approval of the Minutes of the September 22, 2015 Boards and Commissions Review Committee Meeting
3. Election Board Review Presentation
4. Discussion and Potential Action Regarding the Committee Review of the Election Board
5. Public Comment
6. Discussion of Training for New Members of Boards and Commissions
7. Introduction of New Business
8. Next Meeting Date – November 24, 2015
9. Adjournment

The above agenda is intended to be followed, but is subject to changes, deletions, additions, and modifications, as permitted under the Freedom of Information Act of the State of Delaware. The agenda is posted (7) seven days in advance of the scheduled meeting in compliance with 29 *Del. C.* Section 10004 (e)(2). Copies may be obtained at the City Secretary's Office, 220 South Main Street, or online at [www.cityofnewarkde.us](http://www.cityofnewarkde.us).

**Agenda Posted – October 20, 2015**

Attest:

Sworn by:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Notary Public

(Seal)

**CITY OF NEWARK  
DELAWARE  
BOARDS AND COMMISSIONS REVIEW COMMITTEE  
MINUTES  
SEPTEMBER 22, 2015**

Those present at 7:02 p.m.:

Members: Chairperson, Rebecca Powers, At Large  
John Morgan, District 1  
Roberta Sullivan, District 4  
Maria Aristigueta, District 5  
M. Howland Redding, District 6

Absent: Jo Anne Barnes, District 2  
Christopher Laird, District 3

Staff: Renee Bensley, City Secretary

1. **MEETING CALLED TO ORDER BY CHAIR REBECCA POWERS AT 7:02 P.M.**
2. **APPROVAL OF MINUTES OF THE JULY 28, 2015 BOARDS AND COMMISSION REVIEW COMMITTEE**

MOTION BY MS. SULLIVAN, SECONDED BY MR. REDDING: TO APPROVE THE MINUTES AS AMENDED.

MOTION PASSED UNANIMOUSLY.  
VOTE: 5 TO 0. (ABSENT: BARNES, LAIRD)

3. **DISCUSSION AND POTENTIAL ACTION REGARDING AMENDING THE SCHEDULE OF COMMITTEES TO BE REVIEWED**

Ms. Bensley stated Dr. Morgan had suggested making some changes to the schedule and staff thought this time might be an opportunity to utilize a more holistic view to the changing of the overall schedule. Ms. Bensley referenced a memo she had written detailing the proposed schedule changes. It proposed evaluating the Election Board in October as it would be advisable to get any recommendations to Council before the election season commenced to avoid any potential view of impropriety or changing policies related to the Election Board during the actual time of the election. In addition, the long-time Chairman of the Election Board had submitted his resignation due to relocation. Although he was moving before the meeting date, it was hoped he would submit comments for consideration by the Boards and Commission Review Committee.

Following in November would be the Board of Ethics. Any changes recommended could be included as part of the recodification process. Additionally, since the City has a

state approved Ethics Code, any changes to the Board of Ethics had to go the Ethics Board itself and through the State Public Integrity Commission, before Council could consider the changes. Ms. Bensley suggested taking a break in December as the meeting date would fall during the holiday week.

The Board of Building Appeals, Property Maintenance Appeals Board and Board of Sidewalk Appeals would be reviewed in January, 2016. These three boards face possible consolidation as part of the recommendation. It would be helpful to move the evaluation of these boards until January to give time to the Planning & Development Department, which staffs these boards, to give their input.

The Downtown Newark Partnership would be evaluated at the February and March meetings. They were a fairly involved committee with four subcommittees and may have a lengthier review.

The Community Development/Revenue Sharing Advisory Committee would follow in April, so the evaluation may be completed before their work starts at the end of summer as late summer and fall were their busiest times.

The Conservation Advisory Commission would be evaluated in May. Planning Commission would follow in June and the Board of Adjustment in July.

The Board of Business License Review and Personnel Review Committee would be the last committees to be reviewed. The Board of Business License Review was currently being reconstituted and re-energized, so their committee may be changing quite a bit. It was preferable to have those changes in place before this committees was reviewed.

Ms. Powers stated it is her opinion that skipping December makes sense. She will be out of town as well.

Ms. Sullivan stated the Board of Ethics review is due to fall on the Tuesday before Thanksgiving, which may pose a problem for some. Dr. Morgan reiterated that and wanted to know if it would be possible to hold the meeting earlier in the month. Ms. Powers stated that would be fine with her if a date and room was available. Ms. Bensley would check and see if Tuesday, November 17<sup>th</sup> would be available and would report back.

Dr. Morgan believed the commission should anticipate the possibility that scheduled meetings in January, February or March may be cancelled due to weather which could create a backlog if another committee needed to meet. Therefore, he suggested not cancelling the December meeting. Ms. Bensley noted it was unlikely this commission would get "bumped" for another meeting. Ms. Powers stated in the event meetings were cancelled due to weather, the commission may just move everything back a month. Ms. Bensley cautioned against scheduling meetings for other dates in December as Council conducted budget meetings during that time and may need to schedule additional meetings.

Dr. Morgan stated he wanted to revise the schedule. He stated he was surprised to see how far out of compliance the Downtown Newark Partnership was with regard to accurate and timely minutes; in particular some of the subcommittees. Therefore, he would prefer to move up the review of that committee. Ms. Bensley stated part of the reason the Downtown Newark Partnership has not been recommended until the beginning of 2016 was due to the fact that the ownership of that committee within the City staff was currently in flux. The committee previously fell under the Planning & Development Department; however, there was reorganization currently happening with various staff members and there may be additional changes. These changes would coincide with the budget process. Ms. Powers had mixed feelings on the topic of changing the date. Dr. Morgan wanted to propose reviewing the Downtown Newark Partnership (“DNP”) in November and December. It was his opinion this was necessary due to the difficulties they were having maintaining what he felt were adequate public records of what transpired at their meetings.

Ms. Powers stated it was her belief there may not be a logical place to move up the DNP on the schedule. She would not like to start their evaluation in November and then have the December break. Dr. Morgan suggested deferring the consideration of the revision of the schedule to later in the meeting.

MOTION BY DR. MORGAN, SECONDED BY MS. POWERS: TO DEFER TO UNTIL LATER IN THE MEETING THE DISCUSSION OF THE REVISION OF THE SCHEDULE AND PROCEED TO THE CONSIDERATION OF THE SCHEDULE FOR PRODUCTION OF MINUTES.

MOTION PASSED UNANIMOUSLY. VOTE: 5 TO 0. (ABSENT: BARNES, LAIRD)

**4. DISCUSSION AND POTENTIAL ACTION REGARDING THE TIMELINE FOR PRODUCTION OF MINUTES BY COMMITTEES**

Dr. Morgan distributed copies of some of the minutes and copies of the City website sections for the agendas and minutes of the DNP. Dr. Morgan stated the agendas and the minutes of the Parking Committee are included along with the agendas and minutes of all of the other committees of the DNP of which there were the Design Committee, Merchants Committee and the DNP Board. Ms. Bensley noted there also was an Ad Hoc Events Subcommittee as part of the DNP. Dr. Morgan stated on the third page of the packet he distributed he had noted, although some of the meetings had been cancelled there were a large number of meetings of the DNP (especially the Merchants Committee and the Design Committee) that did not have minutes on the website. Dr. Morgan stated the number of meeting minutes missing was surprising. He further noted the most recent minutes posted for the Parking Committee were from April 2015, the DNP Board were from March 2015, the Merchants’ Committee were from November 2014 and the Design Committee were from September 2014. He believed the committees have met more frequently but there were no minutes posted. Dr. Morgan stated it was his opinion it was not the fault of any one individual but more a systematic problem.

Ms. Aristigueta stated she had read where the Community Affairs Officer responded and said he was going to track the missing items down as soon as possible. Dr. Morgan stated he has heard nothing further from the City.

Dr. Morgan distributed minutes of the Parking committee of the DNP from March and April of 2015 along with emails. He noted in the minutes of the DNP Parking Committee meeting on March 11, 2015 a paragraph on the second page discusses the proposed parking garage. Mr. Marvin Howard, Parking Administrator mentioned property along Delaware Avenue. The minutes indicated Ms. Katie Gifford attended the meeting; however on page 3 it indicated there was no public comment. Ms. Gifford informed Dr. Morgan she was not in attendance.

Dr. Morgan followed with the minutes of the DNP Parking Committee on April 8, 2015. Dr. Morgan stated there were several discrepancies in those minutes as well in content and also accurate attendance. He found it quite disturbing and not minor issues. Dr. Morgan stated Mr. Marvin Howard and Mr. Ricky Nietubicz were present at the meeting.

Ms. Bensley wanted to note that the meeting was in April and emails that Dr. Morgan had sent to the University asking for clarity about the Lot 1 expansion occurred in July. Due to the three month lapse, it was possible that the discussion that had happened at the April meeting was accurate at the time and the decision that was mentioned in the July email from Mr. Douglass from the University would not have been known in April (i.e. the situation may have changed in three months). Therefore, Ms. Bensley felt that to suggest that staff may have been deliberately misleading the subcommittee may be a bit harsh. Dr. Morgan added that it may not be the fact that staff was misleading, but may be a case of minutes being inaccurately done by a staff member not really understanding what was said.

Ms. Powers stated it was her opinion the discussion on maintaining accurate records was very important but suggested not focusing on the Parking Committee at this juncture, but rather focus on Dr. Morgan's suggestion on how minutes should be recorded.

Dr. Morgan stated that as time passed it was more difficult for people to remember the details of a meeting. Therefore, he believed that it was very important that minutes be compiled within a month after a meeting was held. In his opinion, minutes should be completed and posted online. The meetings have audio recordings for verification. It was his opinion there should be a standard in which draft minutes posted online within 20 working days of the meeting.

Ms. Powers asked Ms. Bensley if all boards and commissions have a designated "spot" on the City's website for minutes, agendas, etc. Ms. Bensley stated not all were on the City's website. Ms. Bensley stated the committees that have presence on the City's website are ones that meet regularly.

Ms. Sullivan asked if there were other boards or commissions that appeared in violation of not having up to date or accurate minutes. Dr. Morgan stated he had found that a few missing Board of Adjustment minutes that were not on the City's website but they were located and posted on the City's website within a few days. He reported he did not find any other boards or commissions where things were running so far behind. Ms. Sullivan suggested directly addressing the boards or commissions that need to fix their issues rather than issuing a blanket across all boards and commissions. Dr. Morgan stated there were no requirements in place as it is not required by the State of Delaware rather it was done by the City at their discretion.

Ms. Powers asked if there was any information on other local municipalities and their practices. There was none.

Mr. Redding asked if the City had a template for minutes as he noted that the minutes provided by Dr. Morgan showed similar errors. Ms. Bensley stated there was not a template that was followed, however it was common practice to use the previous months minutes as a foundation. Mr. Redding felt that a template may be useful and could prevent some of these errors.

Ms. Powers asked Ms. Bensley's opinion on this matter. Ms. Bensley stated she had no issue if the committee wanted to make a recommendation directly to Council as one of her concerns with an earlier version of this proposal was to give direction to the boards and commissions directly, which the Committee was not empowered to do. Ms. Bensley continued that the state law requires that any boards and commissions that meet four times or less per year comply to the 20 day standard. Any other boards and committees would be under the regular FOIA standard, would have minutes approved at a subsequent meeting and at that point have them be publically available. Publically available within the state law for state committees required them to be posted on a state website. There is not an equivalent municipal law at this time. The standard to post minutes within 20 days of the meeting for groups that meet four times per year or less made sense in her opinion; to be more aggressive than that she felt was not necessary. Any concerns and suggestions raised by Dr. Morgan were better addressed by the committee during their evaluation rather than forwarding a blanket recommendation to Council. In practice, City staff worked to have minutes available as soon as possible. It can be variable based upon staffing (i.e. vacations, etc.) and other things that were going on in the City. There were very few departments that were responsible for all of the committees. To limit the flexibility of the workload could potentially provide problems.

Ms. Powers asked if it changed the workload for committees that much if they were meeting monthly. Ms. Bensley stated that it did not. She added that the DNP has had issues with not having a quorum so they have not had official meetings where minutes could be approved. As for accuracy, it was the responsibility of the board members to review minutes prior to them being approved and any inaccuracies would be captured. The issue of draft minutes has been raised before. This has been done for Council and Planning

Commission because they are larger committees. Many other committees are only posted after they are approved. Whether or not there were draft minutes available, it was more the exception than the practice in looking at the overall group of boards and committees. Ms. Powers indicated that she was inclined to support the recommendation.

Dr. Morgan stated it was his opinion that there was no clear dividing line as to how often committees meet. He felt the City had never made it clear to the boards and commissions established that they should keep accurate minutes which are promptly written in draft form and posted online. He felt these boards could not be criticized for not doing this unless some responsible body of the City has told them they should do this. He wanted the proposal approved by the Committee and forwarded to Council.

Ms. Bensley stated she takes no issue with minutes being posted online however she was concerned with the arbitrary turnaround time. If there is a specific committee that this needs to be addressed with, it was her suggestion it was more appropriate to address this issue within the committee evaluation rather than impose a blanket restriction on all committees as a whole. Ms. Powers did not see how the timeline changed things dramatically. Ms. Aristigueta noted that the timeline provided may be good practice. Ms. Sullivan noted that Ms. Barnes had submitted her objections to the proposal.

Mr. Redding stated as a City resident, he would be more concerned with the validity of minutes rather than the timeliness of minutes.

Ms. Sullivan stated there is an opportunity on a committee by committee basis to access the validity, accuracy and timeliness of each set of minutes and identify problems as they occur. She stated she would vote no on the recommendation.

Ms. Aristigueta stated it would be her opinion it would be wise to clarify the author of the minutes on each committee and address the issues.

Dr. Morgan stated he would not be comfortable waiting until February or March of next year to review the DNP without making a recommendation now to Council so they may give direction to City staff (i.e. prepare better minutes).

Mr. Redding asked if committees such as the DNP had draft minutes done in 20 days would that appease a concerned citizen if they were not accurate.

Ms. Powers stated just because this issue was identified with this committee does not mean it is not elsewhere or elsewhere in the future.

Dr. Morgan made the following recommendation:

**MOTION BY DR. MORGAN, SECONDED BY MS. POWERS: THAT THE BOARDS AND COMMISSIONS REVIEW COMMITTEE RECOMMEND TO COUNCIL THAT**

DRAFT MINUTES OF ALL MEETINGS OF THE CITY OF NEWARK'S BOARDS AND COMMISSIONS BE POSTED ON THE CITY'S WEBSITE WITHIN 20 WORKING DAYS AFTER THE CONCLUSION OF THE MEETING.

Discussion continued regarding the motion, the responsibility of committee members to review draft minutes prior to approval and the efforts of the City staff in completing timely and accurate minutes.

MOTION PASSED. VOTE: 4 TO 1.

YES: ARISTIGUETA, MORGAN, POWERS, REDDING.

NAY: SULLIVAN.

ABSENT: BARNES, LAIRD.

The Chair returned the table back to Item #3 .

Ms. Sullivan stated if there was going to be a change in leadership of the DNP the group would benefit from hearing the history, the current issues and the plan for the future. Ms. Bensley stated the future and the path forward of the committee might not be clear by the time the committee reviews the DNP as a lot depends upon what Council decides during the budget process. Ms. Powers stated she sees the value in addressing the committee once changes may be made however she believes it does not prohibit this committee from asking Mr. Nietubicz and other individuals involved previously to get involved in the process as well. Ms. Bensley stated there was not necessarily going to be a change in staff, just particularly where staff may be.

Ms. Powers stated the DNP has held a lot of charge for people and the public for a long time. She felt addressing these issues over the holiday was not the best idea.

Dr. Morgan replied he is okay with not moving the DNP up in the evaluation process because of the recommendation that was just passed regarding the draft minutes be produced 20 working days after the meeting.

Mr. Redding asked if the recommendation was retroactive. Dr. Morgan replied that Council will interpret the motion however they choice to do so. Ms. Bensley reported she would take these issues back to staff and hopefully these issues will be addressed.

Ms. Bensley stated Ms. Barnes and Mr. Laird indicated their support to amend the schedule of committees to be reviewed.

Dr. Morgan reiterated the meeting in May will on May 24 not May 31. Additionally, it is hoped to change the November meeting to November 17. Ms. Bensley will confirm if the room is available for the November meeting.

Ms. Sullivan confirmed the packet for the October will be similar to the packet they received for the July 28, 2015 that evaluated the Memorial Day Parade Committee.

MOTION BY MS. POWER, SECONDED BY MS. ARISTIGUETA TO ACCEPT THE SCHEDULE OF COMMITTEES TO BE REVIEWED AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 5-0.  
(ABSENT: BARNES, LAIRD)

**5. PUBLIC COMMENT**

There was no public comment.

**6. INTRODUCTION OF NEW BUSINESS**

Dr. Morgan stated it was his impression that most of the City's boards and commissions meet in Council Chamber. One of the exceptions is the committees of the DNP. He confirmed with Ms. Bensley that the DNP Board meets in Council Chambers. It was his impression that when there were meetings in Council Chamber, they were formal and raised the level of thought and discourse as opposed to having a meeting in an informal setting, such as a restaurant. Dr. Morgan stated he wanted this committee to think about whether a recommendation should be made that any board or commission considering significant projects should have its meetings in Council Chambers and be recorded.

Ms. Powers reported that Katie Gifford mentioned this in a previous meeting and it was her recollection that this board would discuss and encourage all meetings to be held in Council Chambers.

Dr. Morgan asked if there any reason why the DNP Parking Committee could not meet on Wednesday morning in Council Chamber at 10 a.m. monthly. Ms. Bensley stated if the room was open there would not be an issue.

Ms. Powers asked Ms. Bensley to ask Sam Burns, Election Board Chair to be very specific in his notes for the Election Board review.

**7. SETTING OF NEXT MEETING**

The next meeting is scheduled for Tuesday, October 27, 2015 at 7:00 p.m.

**8. THE MEETING WAS ADJOURNED AT 8:15 P.M.**

Renee K. Bensley  
City Secretary

/tas

**CITY OF NEWARK  
DELAWARE**

**October 20, 2015**

**TO: Boards & Commission Review Committee Members**

**FROM: Renee Bensley, City Secretary**

**VIA: Carol Houck, City Manager**

**CC: Mayor and Council**

**SUBJECT: Election Board Review Information and Staff Recommendation**

Governing Authority

Boards of Elections for municipalities are governed by Title 15, Chapter 75 of the Delaware State Code (attached). The Election Board for the City of Newark is also governed by Article X of the City Charter and Chapter 10 of the City Code (attached).

Qualifications

State Code provides that members shall be qualified electors in the municipality for which they are appointed and shall not be an elected official or candidate or an immediate family member of an elected official or candidate (15 Del. C §7551(b)). City Code provides that members shall be a citizen of the United States and shall have resided within the geographical boundaries of the City for one year next preceding his/her appointment. The mayor and members of the City Council, their immediate family, and City employees shall not be eligible for appointment to the Election Board (Sec. 10-2).

Orientation/Training

Currently, training for board members is in two parts. First, starting in 2015, a board member specific training has been offered by the New Castle County Department of Elections, which all members are encouraged to attend. Board members are also asked to attend the two trainings for election workers: the machine operator training hosted by the New Castle County Department of Elections and the poll worker training hosted by the Board the evening before the election.

Rules of Procedure

The president is selected by a vote of the committee during their organizational meeting in January each year. In regards to meeting procedures, the organizational meetings follow the published agenda (sample attached) including:

- Call to order;
- Approval of previous meeting minutes;
- Election of Election Board President for the year;
- Committee update regarding dates for the year's election;

- New business; and
- Adjournment

### Activity Level

The activity level of the Election Board directly correlates with how many contested elections are held each year. While it was common in the past to have years where there were no election or elections only in the case of an open Council seat in a single district, the retirement of the Mayor and three Council members in three years, as well as the various contested races against incumbents has kept the Board very active.

This committee meets on an as needed basis. The committee has met 12 times in the last five years, two times for each election held. However, this committee's activity is one where the activity level cannot accurately be measured by the number of meetings held. From January 1 through Election Day, which is the second Tuesday in April, board members are working to certify candidate eligibility, update voter registration rolls, recruit poll workers and machine operators, prepare polling place materials for Election Day and fielding any issues that arise on Election Day. The Board is also responsible for considering any challenges as to the conduct of the election. There are currently 6 members on this committee. There is one vacancy in the at-large position on the Board as the previous member resigned in September due to moving out of the district. However, Mayor Sierer has submitted a nominee to replace that member that will be considered in November by Council. If that nominee is approved, the board will be at full strength. A member's term on this committee is three years. As mentioned earlier, City residency is a qualification for membership on this committee, so there are no members who are not City residents. This committee is compensated \$75.00 per Election Day worked and \$12.00/hour for any additional clerical work that must be done in advance of the election.

### Reporting

Currently, the committee is required to keep minutes under the State of Delaware Freedom of Information Act as well as submitting a certification of the election results to Council prior to new members being sworn in at Council's organizational meeting in April. The committee has up-to-date minutes which are kept by the City Secretary's Office staff. Election Board minutes have been posted on the City's website since 2014.

### Stakeholder Viewpoints

Samuel Burns is the outgoing chair of the Election Board and served on the Board for 43 years prior to his resignation in September due to moving out of state. When asked for feedback on the committee, Mr. Burns stated that he felt the current structure of the committee was adequate for the functionality of the group and that 7 members was a good number as it allowed for flexibility in meeting quorum if someone was unable to attend meetings that had not been present with a smaller group. He felt that there was no need for additional meetings to be required as the current number met the demands for election needs and that the three year length of the board members' terms was good. He felt that all of the members are contributing to the group as a whole and that the only qualification needed was to be able to devote the time needed to help execute the

election. He felt strongly that the Election Board, as well as Council, should remain non-partisan.

Mr. Burns believed that meeting with New Castle County Board of Elections department heads and the touring of the County election facilities would be helpful training for new members and that more cross training for Board members so all members know how to complete all tasks would also be good. Additionally, Mr. Burns felt that meeting with election boards in other cities and towns in Delaware would provide learning opportunities for Newark's Election Board members. Finally, he noted that the City of Newark's elections are held in high esteem by the County and State Departments of Election and are often held up as an example for other municipalities.

The remaining Board members were all contacted by mail to solicit comments for the review, however, none submitted any suggested changes.

Renee Bensley is the City Secretary/Director of Legislative Services for the City, acts as staff for the Election Board and is responsible for facilitating the execution of City elections. She notes that without the Election Board, her job would be much more difficult as the members take on a large amount of the work in verifying candidates, updating voter registration lists, recruiting and training poll workers, and ensuring that Election Day runs smoothly in the City of Newark. She also noted that Board members have been making an effort to become better versed in all aspects of election preparation, but that continued cross training would be helpful.

Additionally, with Mr. Burns leaving the Board, he is taking 43 years of institutional knowledge with him. Ms. Bensley is working with other long-serving Board members to create a manual of election preparation procedures in order to capture the institutional knowledge of existing board members and to use to help train future members.

#### Necessity

The Election Board has a narrow scope of duties in that it is only responsible for the conduct of City elections. It is not similar to other Council-appointed boards and commissions, however, it is required through State Code and performs essential work to help the City execute fair and impartial elections.

#### Recommendations:

Staff recommends that the Boards and Commissions Review Committee submit a positive review to Council regarding the Election Board and does not recommend any changes to the Code sections regarding this Board at this time. Additionally, staff recommends that the Election Board be encouraged to continue the ongoing cross training efforts and to take advantage of the training opportunities provided by the New Castle County Department of Elections.

Thank you for your consideration and please contact me if you have any questions.

/rkb

**Part V**  
**Special, Municipal and Other Elections**

**Chapter 75**

**MUNICIPAL ELECTIONS**

**Subchapter I**

**General Provisions**

**§ 7501 Applicability.**

Subchapters II and III of this chapter shall apply to the City of Wilmington and subchapter IV of this chapter shall apply to all other municipalities meeting the definition of "municipal corporation" in § 801(3) of Title 22 except those whose powers are vested in a Town Meeting or Town Assembly consisting of all eligible voters, residents, and/or leaseholders in the municipality, including Arden, Ardentown, and Ardencroft, and excepting the Board of Public Works of the City of Lewes, the New Castle Municipal Service Commission.

(75 Del. Laws, c. 342, § 1.)

**§ 7502 Local election when there is only 1 candidate.**

Repealed by 75 Del. Laws, c. 342, § 1, effective June 30, 2006.

**Subchapter II**

**City of Wilmington**

**§ 7521 Elections.**

Registration and elections in the City of Wilmington for the Mayor, Council and other officers of the City of Wilmington shall in all respects be conducted in conformity with the provisions governing general elections as provided under this title, except that the canvass of the vote shall be conducted by the Department, which shall certify those candidates elected to office.

(45 Del. Laws, c. 144, § 34; 15 Del. C. 1953, § 7521; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 2; 61 Del. Laws, c. 428, § 1; 79 Del. Laws, c. 275, § 99.)

**§ 7522 Definition of political party.**

A political party existing only within the City of Wilmington shall be qualified to nominate candidates for the municipal election if it is a bona fide organization of registered voters of the City of Wilmington who:

- (1) Elect a city committee and officers of the city committee;
- (2) Nominate candidates for the municipal election by a secret ballot of those enrolled for purposes of the municipal election as members of the party taken at a convention or by some other method of polling the party membership;
- (3) Not later than August 15 of the year of the municipal election, file with the Department petitions certifying that the party exists and desires to have its candidates placed on the ballot for the forthcoming election. These petitions shall be signed by a number of registered voters of the City of Wilmington not less than 5 percent of the total number of registered voters within the City as of December 31 of the year immediately preceding the municipal election. These petitions shall be prepared between January 1 and August 15 of the year of the election. They shall include the signature, printed name, address at which registered and social security number of each qualified voter signing the petition.

By dating and affixing my signature to this petition, I hereby swear (or affirm) that: (1) My full name, address at which registered and social security number are as stated herein; (2) I am a duly registered voter of the State of Delaware, New Castle County and the City of Wilmington; (3) For the purposes of the municipal election only, I am a member of the \_\_\_\_\_ and I support its

name of party

efforts to have its name, party device and candidates listed on the next municipal election ballot; (4) The date entered opposite my signature is the date on which I signed this petition; and (5) I have read and understand this petition, and I understand that by intentionally entering false information hereon I shall be subject to prosecution for perjury.

The petition shall also include a sworn statement, signed by the person gathering the signatures and sworn to before a notary public, that such person witnessed the placing of each signature on the petition and, to the best of that person's knowledge or belief, all those who signed the petition were duly registered voters of the City of Wilmington. This statement shall be followed by a warning that any person who knowingly signs a statement which contains falsehoods shall be subject to prosecution for perjury.

(15 Del. C. 1953, § 7522; 50 Del. Laws, c. 390, § 3; 61 Del. Laws, c. 428, § 2; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 99.)

## § 7523 Certificates of nomination.

The nominations made under this subchapter for the various offices of the City of Wilmington, together with the name of the party and its device, shall be certified to the Department by the presiding officer and secretary of each political party on the date and in the manner prescribed for other nominations for the general election made under this title.

(15 Del. C. 1953, § 7523; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 4; 61 Del. Laws, c. 428, § 3; 79 Del. Laws, c. 275, § 99.)

## § 7524 Title and device of party.

No party shall use the name of another party appearing anywhere on the ballot either in whole or in part, or any variation thereof, in its own title. The words "Independent" or "Decline," being terms employed in this title, or any variation thereof, shall not be used as the title, or part of the title, of any party. Each party shall select an appropriate figure or device to designate that party, but the coat of arms, seal or flag of the United States, this State or the City of Wilmington, or any part or variation thereof, shall not be used as such figure or device.

In case of a division in any party qualified under this subchapter and a claim by 2 or more factions to the same party name or title, figure or device, the State Board of Elections shall determine to which faction the name and device properly belong. If, within 5 days thereafter, the other faction fails to present and certify some other party title and/or device, the Board shall select some suitable title and/or device to represent that party upon the ballot.

(15 Del. C. 1953, § 7524; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 5; 61 Del. Laws, c. 428, § 4; 79 Del. Laws, c. 275, § 99.)

## § 7525 Ballots.

The names of the candidates for the Mayor, Council and other officers of the City of Wilmington shall be printed on the single ballot as prescribed by § 4501 of this title and to meet the requirements of §§ 5001-5011 of this title.

(15 Del. C. 1953, § 7525; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 6.)

## § 7526 Supplemental certificates of nomination.

Supplemental certificates of nomination for offices of the City of Wilmington shall be issued as prescribed in § 3306 of this title.

(15 Del. C. 1953, § 7526; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 7; 58 Del. Laws, c. 148, § 143; 61 Del. Laws, c. 428, § 5.)

## § 7527 Contest of election.

If any candidate for any of the offices before mentioned shall choose to contest the right of any person claiming to have been elected to said office, the causes for such contests and all of the other provisions now set out in §§ 5941-5955 of this title shall be applicable, and all such contests shall be determined pursuant to all of said sections.

(15 Del. C. 1953, § 7527; 50 Del. Laws, c. 390, § 8.)

## § 7528 General provisions.

All of the provisions of this title pertaining to elections, including registration of voters, Chapters 11, 13, 17, 19, 20, 21, and 23, primary elections and nomination of candidates, Chapters 31 and 33, general elections, Chapters 41, 45, 47, 49, 51, 53, 55, and 57, as well as Chapter 50 of this title, shall be applicable to the holding of elections in accordance with this subchapter.

(15 Del. C. 1953, § 7528; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 9.)

## Subchapter III

### Special Elections for Annexations for City of Wilmington under Title 22, § 101A

## § 7540 Date for election.

(a) Upon the enactment of a county ordinance pursuant to § 101A(a)(2)c. of Title 22, for a proposed annexation of territory by the City of Wilmington, and its approval by the County Executive pursuant to § 101A(a)(2)d. of Title 22, the County Council, by resolution, shall fix a date for the special election required by § 101A(a)(2)e. of Title 22, at which all voters qualified under § 7543 of this title may vote, on the question whether the proposed annexation should be approved.

(b) The special election shall be held not less than 30 days nor more than 60 days after the date of approval of the county ordinance enacted pursuant to § 101A(a)(2)c. of Title 22.

(66 Del. Laws, c. 135, § 2.)

## § 7541 Contents of notice of special election.

The special election shall be held on the date fixed by County Council pursuant to § 7540 of this title and shall be previously advertised by publishing a notice in a newspaper published within the County and having a general circulation therein, once in each of 2 weeks preceding the week in which the special election is held, and by posting a notice in a prominent place in the building at which County Council meets for the conduct of legislative business. The notices shall state the time and place of the special election and further state that the purpose of the special election is to determine whether a majority of the qualified voters in each parcel of the territory are in favor

of the annexation by the City of Wilmington. The posted notice shall also provide a detailed description of the territory, including, but not limited to, a map showing the territory in relation to the City of Wilmington and the area surrounding the territory.

(66 Del. Laws, c. 135, § 2.)

### **§ 7542 Place, time and manner of voting; duties of Clerk of the Peace.**

(a) The special election shall be held in the building in which is situated the offices of the Clerk of the Peace. The polls shall be open from 9:00 a.m. to 6:00 p.m. on the day of the special election and voting shall be by printed ballot, which shall give the qualified voters an opportunity clearly to indicate their consent or objection to the annexation of the territory by the City of Wilmington.

(b) The Clerk of the Peace shall:

- (1) Act as judge of the special election;
- (2) Prepare, publish and post the notices required under § 7541 of this title;
- (3) Prepare the ballots required for the special election; and
- (4) Perform such other duties as provided in this subchapter for the Clerk of the Peace.

(66 Del. Laws, c. 135, § 2.)

### **§ 7543 Qualified voters; voting list.**

(a) The following shall be considered qualified voters for a special election held with respect to an annexation initiated pursuant to § 101A of Title 22 for the City of Wilmington and shall be entitled to vote in such election as provided herein:

(1) Every person 18 years of age or older who at least 30 days prior to the date of the special election is a duly registered voter in the election district or districts of the County in which the territory is located, and who resides in said territory, shall be entitled to 1 vote each.

(2) Unless already qualified to vote under paragraph (a)(1) of this section and subject to subsection (b) of this section each owner of a parcel of real estate located in the territory, as evidenced by the assessment records of the County, shall be entitled to 1 vote each. Corporations, limited partnerships or other entities which own real estate in the territory shall be entitled to 1 vote each under this subsection, which right to vote shall be permitted by the judge of the election at the special election upon receipt of a sealed, certified copy of a corporate resolution passed by the governing body of the corporation, or the equivalent of such resolution of the entity involved, authorizing an officer, agent or other person to vote on behalf of the entity at the special election.

(3) Unless already qualified to vote under paragraph (a)(1) or (2) of this section, each holder of a then-current leasehold interest in a parcel in the territory, as evidenced by a certified copy of the lease reflecting that interest submitted to the judge of the election at the time of the special election, shall be entitled to 1 vote each, which shall be permitted in the same fashion as if carried out under the provisions of paragraph (a)(1) or (2) of this section, as the case may be.

(4) Unless already qualified to vote under paragraph (a)(1), (2) or (3) of this section, each person, corporation, limited partnership or other entity, who in the determination of the judge of the election is qualified to vote under the provisions of subsection (b) of this section, shall be entitled to 1 vote each, which shall be permitted in the same fashion as if carried out under the provisions of paragraph (a)(1) or (2) of this section, as the case may be.

(5) In no event shall any person, corporation, limited partnership or other entity, or any holder of a leasehold interest, who or which is qualified to vote under this section, be entitled to more than 1 vote in such special election.

(b) Not less than 14 days prior to the special election, the Clerk of the Peace shall prepare from the books and records of the county Board of Assessment a list of the real estate owners of each parcel of the territory for which the special election is to be held. In addition, not less than 21 days prior to the special election the Department of Elections shall provide the Clerk of the Peace with a current list of registered voters in the election district or districts in which the territory is located, who reside in the territory. From the 2 lists prepared pursuant to this subsection the Clerk of the Peace shall compile the voting list of the qualified voters for the special election. The voting list shall be evidence of the right of qualified voters to vote in the special election, except as hereinafter provided:

(1) Real estate owners who sold their property or properties in the territory prior to the date of the special election shall not be permitted to vote but the then owners of the property or properties shall be entitled to vote in their place and stead upon furnishing the judge of the election with the original or a certified copy of the deed to the property or properties, which deed shall clearly evidence that it was duly recorded; provided, however, that if the new owner is a corporation, limited partnership or other entity, the new owner must also comply with the provisions of paragraph (a)(2) of this section;

(2) Any person claiming the right to vote at the election as an heir of any real estate owner in the territory who has died since the preparation of the voting list, or as trustee or guardian under the terms of the last will and testament of such real estate owner (who has died since the preparation of the voting list) shall furnish the judge of election with the original or a certified copy of the will or other document evidencing that person's ownership of, or interest in, the property of such real estate owner, and shall thereupon be permitted to vote as if qualified under paragraph (a)(2) of this section; or

(3) Each person, corporation, limited partnership or other entity qualified to vote in the special election pursuant to paragraph (a)(3) of this section shall be permitted to vote despite their absence from the voting list prepared by the Clerk of the Peace.

(66 Del. Laws, c. 135, § 2; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 100.)

### § 7544 Certification of result of special election; retention of ballots.

No later than 3 days after the holding of the special election, the judge of the election shall tabulate the ballots and certify the result to the County Council and to the Wilmington City Council under that judge of election's hand and seal. The ballots shall be retained in the safekeeping of the county government for 1 year before being destroyed.

(66 Del. Laws, c. 135, § 2; 70 Del. Laws, c. 186, § 1.)

### § 7545 Alternative approval procedure when only 1 qualified voter exists.

If only 1 qualified voter in the territory exists for the purpose of determining whether an annexation initiated pursuant to § 101A of Title 22 for the City of Wilmington shall be approved, notwithstanding any other provisions in this subchapter or in Title 22 the annexation shall be deemed approved if, within 7 days of the County Executive's approval of the county ordinance pursuant to § 101A(a)(2)f. of Title 22, the qualified voter files with the Clerk of the Peace a sworn affidavit approving of the annexation. If the qualified voter is a corporation, limited partnership or other entity, such affidavit must be accompanied by a suitable sealed, certified copy of a corporate resolution or its equivalent authorizing an officer, agent or other person to execute the affidavit approving the annexation on behalf of the entity. On receipt of said affidavit, together with the authorization, if any, the Clerk of the Peace shall certify the approval to the County Council and to the Wilmington City Council under that Clerk of the Peace's hand and seal. Said certification shall, for all intents and purposes, be construed as the required certificate under § 7544 of this title and § 101A(a)(2)f. of Title 22.

(66 Del. Laws, c. 135, § 2; 70 Del. Laws, c. 186, § 1.)

### § 7546 Definitions.

For the purposes of this subchapter, the following terms shall have the meanings described herein:

- (1) "Clerk of the Peace" shall mean the Clerk of the Peace for New Castle County.
- (2) "County" shall mean New Castle County.
- (3) "County Council" shall mean the New Castle County Council.
- (4) "County Executive" shall mean the New Castle County Executive.
- (5) "Parcel" shall have the meaning set forth in § 101A(c)(4) of Title 22.
- (6) "Territory" shall have the meaning set forth in § 101A(c)(6) of Title 22.

(66 Del. Laws, c. 135, § 2.)

## Subchapter IV

### Municipal Elections Except for the City of Wilmington

#### § 7550 General.

- (a) Subchapters IV and V of this chapter shall not apply to elections for the City of Wilmington, referenda, or annexation elections.
- (b) Provisions of municipal charters or ordinances inconsistent with the provisions of subchapters IV and V of this chapter shall be considered repealed.
- (c) Municipalities shall conduct all elections for local office using voting machines that the Department of Elections shall provide.
- (d) Where a deadline in subchapters IV and V of this chapter is a Saturday, Sunday or a holiday in the municipality, the deadline shall be the next day that is not a Saturday, Sunday or holiday in the municipality.
- (e) Deadlines shall be no earlier than 4:30 p.m., local time.
- (f) Municipalities shall not adopt any ordinance that is contrary to any of the provisions of subchapters IV and V of this chapter.
- (g) Section 4972 of this title applies to subchapters IV and V of this chapter.
- (h) The date and time of municipal elections, the offices up for election, and the terms of those offices shall be as provided in the municipality's charter and/or ordinance, provided that, upon the request or concurrence of the municipality's board of elections, the State Election Commissioner may, unless otherwise provided in the municipality's charter and/or ordinance, cancel any municipal election the conduct of which is rendered impracticable due to severe inclement weather, acts of God or similar emergencies outside of the municipality's control. Upon such cancellation, the municipality shall reschedule the election in accordance with § 7553 of this title and the term of any existing officeholder shall continue until the results of the rescheduled election are certified pursuant to § 7558 of this title.
- (i) Municipalities shall enact ordinances to implement optional provisions of subchapters IV and V of this chapter at least 60 days prior to the date of the first election to which those provisions shall apply.
- (j) The State Election Commissioner, in collaboration with the Departments of Elections, shall promulgate the documents, forms and envelopes required by subchapters IV and V of this chapter.
- (k) A municipality shall contract with the Department of Elections to conduct an election to elect members of the municipality's government at least 60 days prior to the date of the election.
- (l) A voter may ask a person or persons of that voter's choice, who is not that voter's employer or an agent of that voter's employer or union, to assist that voter in voting.

(m) The term "Department of Elections" as used in subchapters IV and V of this chapter refers to the State Department of Elections.

(n) The State Election Commissioner in the collaboration with the departments of elections shall establish reasonable fees to cover the costs of services provided to municipalities. The initial schedule of fees shall be established and published no later than December 31, 2010. The schedule shall be reviewed, modified as necessary and published anew no later than December 31 in every odd-numbered year.

(o) Except as expressly stated otherwise, the term "Board of Elections" as used in subchapters IV and V of this chapter refers to the applicable municipal board of elections.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 77 Del. Laws, c. 409, §§ 1, 2; 78 Del. Laws, c. 248, § 1; 79 Del. Laws, c. 275, § 101.)

### § 7551 Boards of Election; appointment, authority.

(a) A Board of Elections shall be appointed as provided in the municipality's charter or code and shall oversee the election of the municipality's government.

(b) Members of municipal Boards of Elections shall be qualified electors in the municipality for which they are appointed and shall not be an elected official or candidate or an immediate family member of an elected official or candidate (mother, father, son, daughter, brother, sister, including half-brothers and sisters, stepfamily members and in-laws).

(c) Members of municipal Boards of Elections shall serve terms as provided in the municipality's charter or code.

(d) Upon confirmation of a member to a municipality's Board of Elections, the municipality shall issue a Certificate of Appointment to the member and the member shall swear or affirm the following oath orally and in writing:

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Delaware, and that I will faithfully discharge the duties as a member of the Board of Elections for the city (or town) of \_\_\_\_\_ by ensuring that elections within the city (or town) are conducted fairly, impartially and in accordance with the Delaware Code and city (or town) charter and ordinances to the best of my ability.

(e) A municipal Board of Elections member shall not participate in electioneering. Electioneering includes political discussion of issues, candidates or partisan topics; the wearing of any button, banner or other object referring to issues, candidates or partisan topics; the display, distribution or other handling of literature or any writing or drawing referring to issues, candidates or partisan topics; and the deliberate projection of sound referring to issues, candidates or partisan topics from loudspeakers or otherwise. A Board of Elections member who violates this section shall be fined not more than \$500 and shall forfeit that Board of Election member's position on the Board.

(f) Municipal Boards of Elections shall consist of an odd number of members as stated in the municipality's charter or code, but in no case shall there be fewer than 3 members on the Board.

(g) Unless otherwise provided in the municipality's charter or code, the municipality's Board of Elections shall oversee the absentee ballot process for elections conducted in accordance with subchapters IV and V of this chapter.

(h) The Department of Elections shall make training available for the members of the municipality's Board of Elections on their roles and responsibilities.

(i) A municipal Board of Elections may request, in writing, advice and guidance from the Department of Elections. The Department to which a Board of Elections makes a request shall provide a written response as soon as practical but no later than 7 business days following receipt of the request.

(j) Municipalities shall post the names and contact information for its Board of Elections in the city/town hall or in the building where the municipal government meets, and on the municipality's website if it has one.

(k) A municipality shall notify the State Election Commissioner and the Department of Elections of the members of its Board of Elections when such members are installed.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 77 Del. Laws, c. 409, § 3.)

### § 7552 Complaint procedure; pre-election activity.

(a) A citizen of the municipality may submit a written complaint, regarding any aspect of pre-election activity that is contrary to the provisions of subchapters IV and V of this chapter, to the municipality's Board of Elections. The complainant shall state with specificity the action or activity that is contrary to the provisions of subchapters IV and V of this chapter. The municipal Board of Elections shall meet in a special public meeting held as soon as practicable in compliance with the Delaware Freedom of Information Act (Chapter 100 of Title 29), but in no event later than 10 days following receipt of the complaint to determine if the complaint has any merit. Within 24 hours of the special public meeting, the municipal Board of Elections shall issue a written decision on whether the pre-election action or activity was legally incorrect and ordering lawful action necessary to correct such legal error in the pre-election action or activity. The Board of Elections shall immediately make its decision available to the public. If the municipality's Board of Elections fails to meet and issue a written decision within the time frames set forth herein, the citizen may file the complaint directly with the State Election Commissioner. Such complaints shall be heard in accordance with paragraph (b) of this section hereunder.

(b) Decisions and orders of a municipal Board of Elections may be appealed to the State Election Commissioner in writing within 2 business days of the Board's decision and order. The State Election Commissioner shall take testimony at a special public hearing that the

Commissioner conducts within 4 business days following receipt of the appeal. The Commissioner shall hold the hearing in accordance with the Administrative Procedures Act (Chapter 101 of Title 29) except as provided in this section. The Commissioner shall give 48 hours prior notice to all parties to such special public hearing in lieu of the notice provisions of § 10122 of Title 29. Notice of the hearing shall be posted as well as published on the Commissioner's website in lieu of the notice provisions of § 10124 of Title 29. No later than 2 business days following the hearing, the Commissioner shall issue a written decision on whether the pre-election action or activity was legally incorrect and ordering lawful action necessary to correct such legal error in the pre-election action or activity. Decisions of the Commissioner may be appealed in writing to Superior Court no less than 48 hours before the date of the election.

(c) Notwithstanding the foregoing, at the option of the complainant, that complainant may elect to appeal the decision of the municipal Board of Elections in writing to the Superior Court no less than 48 hours before the date of the election.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 77 Del. Laws, c. 409, § 4; 78 Del. Laws, c. 248, § 2.)

### **§ 7553 Notices; posting; publishing; deadlines, election calendar.**

(a) For each election of members of the municipal government, a municipality shall post a Notice of Election conspicuously within the municipality no later than 20 days prior to the date of the election. Such notice shall include the date, time and location of the election, the candidates for each office on the ballot and the qualifications to vote in the election. In municipalities that allow nonresident voting, those municipalities may notify the electorate by any appropriate means, such means to be stated in the municipality's charter or code.

(b) For each election of members of the municipal government, a municipality shall post a Notice of Solicitation of Candidates conspicuously within the municipality 20 days prior to the filing deadline for the offices up for election. Such notice shall include the term or terms of each office up for election, the deadline and procedure for declaring candidacy for an office up for election and the qualifications for holding each office.

(c) For any municipal election where subchapters IV or V of this chapter or the municipality permits absentee ballots, all notices required by this section shall include information about how to obtain an absentee ballot.

(d) A municipality shall post the notices required by this section, at minimum, in compliance with the Delaware Freedom of Information Act, Chapter 100 of Title 29.

(e) A municipality shall post all election notices on its website if the municipality has a website.

(f) Within 3 business days of posting election notices pursuant to subsections (a) and (b) of this section, a municipality shall provide a copy of each election notice to the Department of Elections. The Department of Elections may reject any election notice that is filed late or that is materially incorrect. If such rejection results in the violation of subsection (a) or (b) of this section, the municipality shall reschedule the election in accordance with this section.

(75 Del. Laws, c. 342, § 2; 77 Del. Laws, c. 409, § 5; 78 Del. Laws, c. 248, § 3.)

### **§ 7554 Voter eligibility.**

(a) Voter eligibility shall be as specified within the town charter.

(b) A municipality that uses the State's Voter Registration System as the source of its list of registered voters must enter into a written agreement with the Department of Elections that specifies the responsibilities of each party registering voters, maintaining voter records and providing Election Day support.

(c) A municipality that maintains its own voter registration system shall publish and post a schedule of when eligible citizens may register to vote. The municipality shall provide eligible citizens a reasonable opportunity to register to vote.

(d) Persons appearing to vote shall present proof of identity and address. The identification shall be 1 or more of the following items that individually or together show the identity and address of the person:

(1) A current State of Delaware driver's license or ID card;

(2) A uniformed service ID card;

(3) Another current photo ID issued by the State of Delaware; U.S. Government; the voter's employer, high school or higher education institution;

(4) A current utility bill, bank statement, credit card statement, a paycheck or pay advice, or another type of bill or statement;

(5) A lease or sales agreement; and/or

(6) Any other documentation that a person can reasonably and commonly accept as proof of identity and address.

(e) Personal recognition by a majority of the Election Officers in the polling place can attest to a voter's identity and address.

(75 Del. Laws, c. 342, § 2.)

### **§ 7555 Candidates; eligibility; declaration of candidacy.**

(a) Candidate eligibility shall be established in the town charter.

(b) The procedure for declaration of candidacy shall be established in the town charter or by ordinance.

(c) Unless otherwise specified in the town charter:

(1) A candidate for municipal government shall not have been convicted of a felony;

(2) A candidate for the chief executive of a municipality shall have been a qualified elector of the municipality for at least 1 year prior to the date of the election and shall be at least 21 years of age on or before the date of the election; and

(3) A candidate for a municipality's legislative body and all other elective offices shall have been a qualified elector of the municipality for at least 1 year prior to the date of the election, and shall be at least 21 years of age on or before the date of the election.

(d) A candidate for municipal office shall file a Certificate of Intention or a Statement of Organization establishing a campaign committee with the State Election Commissioner no later than 7 days after declaring that candidate's candidacy. A Certificate of Intention is submitted by a candidate when the yearly salary for the office for which that candidate has filed a Declaration of Candidacy is less than \$1,000 or who does not intend to receive more than \$2,000 in contributions or expend more than \$2000 for campaign expenses during the campaign pursuant to § 8004 of this title. Otherwise, no later than 7 days after making expenditures or receiving contributions on behalf of the candidate or committee, the candidate shall notify the Commissioner and file a Statement of Organization.

(e) The State Election Commissioner shall notify a municipality's Board of Elections when a candidate has failed to comply with the provisions of subsection (d) of this section above.

(f) Excepting candidacies otherwise provided for in the town charter and which have complied with the provisions of subsection (d) of this section within 5 days after the election, the Board of Elections of a municipality shall declare a candidate who has failed to comply with the provisions of subsection (d) of this section ineligible to be a candidate and shall order that candidate's name removed from the ballot subject to the appeal provisions of § 7552 of this title. Administrative errors or oversights by municipal or state officials shall not be grounds for declaring a person ineligible to be a candidate.

(g) Officials receiving any document required in this section shall provide the person filing the document with a receipt showing the date and time that the document was filed and the name of the person who received the document.

(h) Officials receiving any document required in this section shall immediately notify the person submitting the document of any deficiency in the submission. The person submitting the document shall have 2 business days to correct the deficiency even if the extension extends beyond the applicable deadline. If the person does not correct the deficiency by the end of the second business day, the municipality shall reject it.

(i) All documents filed in accordance with this section are public records and a municipality shall make them available for inspection by the public in accordance with the Delaware Freedom of Information Act [Chapter 100 of Title 29].

(j) Where the number of qualified candidates for an office is equal to or less than the number of seats up for election, the Board of Elections shall declare the candidate or candidates elected.

(k) The State Election Commissioner shall prepare a package of Municipal Candidate Forms required by this section and instructions for completing and filing the forms. The Commissioner shall provide each municipality copies of the Municipal Candidate Forms package and publish the package on the State Election Commissioner's website. Municipalities and the Departments of Elections shall publish the Municipal Candidate Forms package on their websites, should such websites exist. Municipalities shall maintain a sufficient supply of Municipal Candidate Forms packages to meet demand.

(l) A municipality shall submit the names of candidates for each office up for election to the Department of Elections no later than 1 business day following the filing deadlines for the elected positions.

(m) A person may withdraw as a candidate by filing the form promulgated by the State Election Commissioner for that purpose with the municipality.

(1) If there are 2 or more candidates remaining on the ballot for the office and there are 14 or more days prior to the date of the election, the municipality shall mail new absentee ballots to all persons to whom it had issued absentee ballots. If an absentee voter does not return the replacement absentee ballot before 12 noon the day before the election, the municipality shall count the original ballot.

(2) Any votes cast for a person who has withdrawn that person's own candidacy are invalid and the municipality shall not tally, canvass nor report such votes.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2.)

### **§ 7556 Election Officers; appointment; responsibilities; training.**

Unless otherwise provided by town charter or code:

(1) The municipality shall have sufficient Election Officers to conduct the elections.

(2) The Inspector shall be the chief Election Officer in the polling place.

(3) The Inspector shall determine all challenges and all other issues involving the conduct of the election at the polling place. The Board of Elections may provide advice and guidance to the Election Officers.

(4) Election Officers individually and collectively shall conduct elections in a fair and equal manner.

(5) Election Officers who violate the provisions of subchapters IV or V of this chapter shall be removed forthwith by the Board of Elections.

(75 Del. Laws, c. 342, § 2; 76 Del. Laws, c. 52, § 1; 77 Del. Laws, c. 409, § 6.)

### § 7557 Conduct of the election.

(a) The Department of Elections shall make available training for Election Officers prior to each election on the operation of the voting machine and Election Day procedures, and provide each Election Officer and Board of Elections member a copy of the manuals and/or checklists for the election.

(b) Election Officers shall admit the following persons to the voting room:

- (1) Board of Elections members;
- (2) Election Officers;
- (3) Persons voting and waiting to vote;
- (4) A child or children 17 years of age or less accompanying the voter;
- (5) Department of Elections administrators or employees identified by badge or other authorization;
- (6) The State Election Commissioner or an employee of the State Election Commissioner's office identified by badge or other authorizations;

(7) Any person accompanying a Board of Elections member, a Department of Elections administrator, or the State Election Commissioner except for an elected official of the municipality, a candidate on the ballot, or a person associated in any way with the campaign of a candidate on the ballot;

(8) Any other person deemed necessary to the conduct of the election by the Inspector except for an elected official of the municipality, a candidate on the ballot, or a person associated in any way with the campaign of a candidate on the ballot; or

(9) A person or persons required by a voter to assist the voter in voting who is not the voter's employer, agent of that voter's employer or union, or an elected official of the municipality, a candidate on the ballot, or a person associated in any way with the campaign of a candidate on the ballot.

(c) *Electioneering.* —

Section 4942 of this title applies to municipal elections.

(d) *Challenges and challengers.* —

(1) For elections for municipal government, each candidate on the ballot may appoint and accredit 1 or more suitable persons as challengers. One challenger at a time for each candidate on the ballot at each voting location in a building may be present to observe the conduct of the election and all election records. The challengers may be changed and their places filled in like manner during the day. Each challenger shall present the Inspector a challenger authorization for that election.

(2) The Inspector shall issue each challenger a challenger badge that the challenger shall wear while in the polling place. If the person leaves the polling place, the challenger shall surrender the badge to the Inspector, and for elections for municipal government, retrieve the challenger authorization from the Inspector.

(3) Challengers may act as peace officers with the same powers of preserving the peace as Election Officers. The Election Officers shall protect them in the discharge of their duty; as long as the challengers do not create any disturbance or obstruction and do not unreasonably prolong any challenge. The Inspector shall caution challengers concerning the foregoing. If a challenger persists in objectionable behavior, the Inspector may eject the challenger. Nothing in this subsection of this section shall prevent the substitution of another challenger for 1 whom the Inspector ejected.

(4) If an Inspector wilfully ejects a challenger without cause, that Inspector shall be deemed to have knowingly and wilfully violated that Inspector's own official duty.

(5) Any person legally in the polling place may challenge any voter for identity, address or bribery. The Inspector shall hear each challenge before the person being challenged enters a voting machine. Once the Inspector decides the challenge, the matter is decided and the challenged person will be either permitted to vote or not permitted to vote depending on the decision. A person denied permission to vote shall leave the polling place immediately. A person challenged for bribery may take and subscribe to the oath as provided in § 4940 of this title. Once the person has taken and subscribed to the oath, the person shall be permitted to vote.

(e) *Voting machines; election supplies; certification.* —

(1) The Department of Elections shall prepare the voting machines for the election of members of a municipal government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

(2) The Department of Elections shall:

- a. Supervise the preparation of the voting machines so that the voter choices are accurately reflected on the ballot;
- b. Provide the materials needed to prepare the voting machines for the election;
- c. Deliver the voting machines, documents, forms, envelopes, and signs prior to the election and pick up the voting machines following the election.
- d. Keep the voting machines used in an election sealed for at least 30 days following the election or until any election contest is settled, whichever is longer. If, however, these voting machines are needed for a primary or general election prior to the resolution

of an election contest, the Department may print audit records, results, and ballot images from each voting machine. The Department shall seal these records in an appropriate container and retain them until the contest is resolved.

(3) Two members of the Board of Elections for a municipality conducting an election shall certify the voting machines to be used in the election prior to the voting machines being delivered to the polling place or places.

(4) Municipalities shall be responsible for providing pens, rubber bands, tape and other supplies needed at the polling place.

(f) *Oath of Office.* —

Before opening the election, the Inspector and any other appointed Election Officer shall subscribe to the following oath:

I do solemnly swear (or affirm) that in the election to be held on the \_\_\_\_\_ day of \_\_\_\_\_ A.D., I will not knowingly or willfully receive or consent to the receiving of the vote of any person who is not a citizen, and also that I will not receive or consent to the receiving of the vote of any person whom I shall believe not entitled to vote, unless my associates shall adjudge such person to be entitled to vote. That I will not receive or reject, nor concur in receiving or rejecting any vote through partiality or under bias, and that I will determine every matter that shall come before me and perform every act and duty by law required of me, touching the election, truly, faithfully and impartially, according to the best of my skill and judgment; that I have not received, nor will I receive directly or indirectly from or through any candidate to be voted for at such election, or any other person, any money, pay or other valuable thing or reward; that I have not been promised, or in any manner been led to believe that I will at any time directly or indirectly receive any money, pay or other valuable thing or reward from such candidate or other person other than that provided by law and if I shall discover any partiality, unfairness or corruption in the conduct of the election, I shall disclose the same to the Board of Elections that is conducting the election and to the Attorney General to the end that the subject may be investigated, so help me God (or so I solemnly affirm).

(g) *Bribery.* —

(1) No person who is accused of receiving or accepting or offering to receive or accept, or pays, transfers or delivers, or offers or promises to pay, transfer or deliver, or contributes or offers or promises to contribute to another to be paid or used any money or other valuable thing as a compensation, inducement or reward for giving or withholding or in any manner influencing the giving or withholding a vote at any municipal election, shall vote at such election unless such person being challenged for any of said causes takes and subscribes to the oath or affirmation as provided for in § 4940 of this title.

(2) Such oath or affirmation shall be conclusive evidence to the Election Officers of the truth of such oath or affirmation, but if any such oath or affirmation shall be false, the person making the same shall be guilty of perjury, and no conviction thereon shall bar any prosecution under § 8 of article V of the Constitution of this State. Such oath or affirmation, when signed and attested as provided in this section shall be competent evidence in any proceeding against the party making the same.

(h) *Polling Places.* —

Polling places shall be convenient and readily accessible to the voters.

(i) *Preparing the polling place prior to the election.* —

(1) The Election Officers for each polling place shall arrive at least 1 hour prior to the time set for opening of the polls and shall proceed to arrange the furniture, documents, forms, envelopes, signs, posters and voting machines for the conduct of the election. They shall inspect the ballot cover and curtain of the machine or machines to make certain that machine or machines has not been damaged or tampered with in any manner. The Election Officers shall also take reasonable steps to ensure that no mirror or camera is in a position that would permit anyone to view the ballot.

(2) The Election Officers shall post or place the following posters and signs as follows:

a. In the voting room:

1. A voter information poster that includes information on voter eligibility, the date of the election and the hours that the polling places or places are open, general information on the right to vote, instructions on how to contact the appropriate officials if these rights are alleged to have been violated, and general information on the prohibition of acts or frauds and misrepresentation;
2. A sample ballot; and
3. Instructions on how to use the voting machine.

b. At each voting machine:

1. A sample ballot; and
2. Instructions on how to use the voting machine.

c. At the entrance to the voting area:

1. A poster that indicates that the room or area is a polling place;
2. A voter information poster as described above; and
3. A sample ballot.

d. Signs marking the route between the entrance and the accessible entrance and the voting room.

e. A poster or other visible object at the entrance to the building used by voters and at the accessible entrance, if different, that marks the building as a polling place.

f. Outside of the building where the polling place is located:

1. Signs that mark that the building is a polling place;
2. Signs that mark the accessible route from parking to the accessible entrance; and
3. Signs that mark or point to the accessible entrance.

(3) The Department of Elections shall provide a Voting Machine Certificate that lists the serial number, ballot number, machine case seal number, printer door number and the protective counter number for each voting machine assigned to the district (where voting by district is permitted) or polling place. Each Election Officer shall witness and verify that the numbers listed on the Voting Machine Certificate are the same as the voting machine serial number, case seal number, printer door seal number, ballot number and protective counter number on the voting machine. If a number is different, the Inspector shall strike through the number, enter the appropriate correction and initial the entry on each of the certificates.

(4) The Election Officers shall then observe the opening of the polls procedure for each voting machine assigned to the district or polling place. If the light in the polls ready to open box on the officer's control panel is in any other but the top position prior to the Inspector pressing the open polls button, stop the procedure and contact the Board of Elections. The machine cannot be used. If, during the opening of the polls procedure, the paper tape shows "error all counters not zero," stop the procedure and contact the Board of Elections. The machine cannot be used. At the conclusion of the open polls procedure for each voting machine assigned to the district or polling place as appropriate, each Election Officer signs the paper tape. After the last Election Officer signs the paper tape, the Inspector shall close the write-in window. Each Election Officer shall then sign § 1 of the Voting Machine Certificate after any discrepancies that were observed were noted on the certificate.

(5) At the time the polls are scheduled to open, the Inspector shall admit voters and authorized challengers to the voting room.

(j) *Voting procedure.* —

(1) For municipalities using the State's voter registration information as the basis of permitting a person to vote: a person shall show proof of identity and address, the Election Officer shall circle the person's name on the Poll List, have that person sign the Voter Log, give the person an authorization to vote and direct that person to the voting machine.

(2) For municipalities that do not use the State's voter registration information: a person shall show proof of identity and address, the Election Officer shall then check the person's name and address against the municipality's registration list or if the municipality does not have a registration system, permit the person to vote if that person is otherwise eligible to vote, have the person sign the Voter Log, give the person an authorization to vote and direct that person to the voting machine.

(3) If the Election Officer determines that the person is not eligible to vote in the election, the Election Officer shall refer the person to the Inspector. The Inspector, after hearing and considering evidence, shall determine whether to permit the person to vote. Upon making the decision, the Inspector shall appropriately annotate the Poll List and/or Voter Log.

(4) If a person's eligibility to vote is challenged by anyone for any reason, the Inspector shall immediately hear and consider the evidence and then decide whether the person is eligible to vote. Once the Inspector has made that Inspector's decision, there is no appeal at the polling place.

(k) *At the close of the polls; unofficial results.* —

(1) Thirty minutes prior to the closing of the polls, the Inspector shall announce or have another Election Officer announce that the polls shall close in 30 minutes both in the voting room and outside of the entrance of the building used by voters.

(2) At the time that the polls close the Inspector shall announce or have another Election Officer announce that the polls have closed both in the voting room and outside of the entrance to the building used by voters. The Election Offices shall permit any person to vote who was in line at the time the polls closed.

(3) The Election Officers shall remove the cartridges and tapes from each voting machine, record the protective counter and seal numbers on the Voting Machine Certificate, close the voting machines, complete the Vote Tabulation for the election, and post a copy of the results tape from each voting machine on the door of the polling place.

(4) The Election Officers, as soon as possible after the polls have closed and the unofficial results announced, shall deliver all election documents, envelopes and absentee ballots to the municipality's Board of Elections.

(5) The municipality's Board of Elections shall secure the documents, envelopes and absentee ballots until such time that they need to canvass the election.

(l) A municipality shall reimburse the Department of Elections that provides the voting machines for its election such reasonable costs for services provided as established by the State Election Commissioner.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 52, § 1; 77 Del. Laws, c. 227, § 2; 77 Del. Laws, c. 409, § 7.)

### **§ 7557A Complaint procedure; unlawful election activity altering result of election.**

(a) A citizen of a municipality may submit a written complaint to the State Election Commissioner regarding any aspect of that municipality's election activity that is contrary to state or federal law which altered or is reasonably likely to have altered the result of the election. Such complaint shall be filed no later than 20 days after the result of the municipal election shall have been certified by the municipality's Board of Elections. The complaint shall state with particularity:

(1) The action or activity that is contrary to state or federal law; and

(2) The specific basis for the complainant's belief that such activity altered or is reasonably likely to have altered the result of the election.

(b) The State Election Commissioner shall review the complaint and such other materials as he or she deems necessary or appropriate. If, following such review, the Commissioner determines there is reasonable probability that conduct in violation of state or federal law altered or is reasonably likely to have altered the result of the election, then the Commissioner shall file suit in Superior Court on behalf of the complainant to invalidate the result of the election or such other relief as shall be appropriate.

(78 Del. Laws, c. 248, § 4; 70 Del. Laws, c. 186, § 1.)

### **§ 7558 Election results; recounts; contests.**

(a) A person certified as being elected shall not take office before the seventh day following certification of the election.

(b) The municipal Board of Elections shall announce the results of an election as soon as possible following the close of the polls.

(c) The municipal Board of Elections shall recount the absentee ballots if the difference between the top 2 candidates is 1/2 of 1% or less than the total votes cast for the office. Where electors vote for more than 1 candidate for an office, the municipal Board of Elections shall recount absentee ballots if the difference between the last candidate elected and the next closest candidate is 1/2 of 1% or less than the total votes cast for the office.

(d) No later than 48 hours following the closing of the polls, the municipal Board of Elections shall convene within to determine the result of the election and certify the name of the winning candidates.

(e) If, following certification of the election and the resolution of any contest, there is a tie vote for a municipal office, then the State Election Commissioner shall order a new election in which only the candidates or positions tied will be on the ballot, unless the laws of the municipality otherwise provide. The municipality shall conduct the special election in accordance with this subchapter; provided, however, that the Department of Elections shall defray the cost of such election up to a cap of \$2,500.

(f) The municipal Board of Elections, following certification of the election and the resolution of any contest, shall audit the election records in order to reconcile the number of voters who cast ballots as compared to the number of voters who returned absentee ballots and voted on voting machines. The results of this audit shall be reported to the municipality's chief executive and be made available for public review.

(g) Sections 5941 through 5955 of this title apply to election contests within municipalities. For purposes of this subsection, the words "county, district or hundred" as used in § 5941 of this title shall mean "municipality" and the words "board of canvass" as used throughout §§ 5941 through 5955 of this title shall mean "municipal Board of Elections."

(75 Del. Laws, c. 342, § 2; 76 Del. Laws, c. 52, § 1; 78 Del. Laws, c. 248, § 5.)

### **§ 7559 Transition.**

(a) This subchapter shall apply to elections held after June 30, 2007.

(b) The State Election Commissioner shall promulgate all forms required by 75 Del. Laws, c. 342 by April 30, 2007.

(75 Del. Laws, c. 342, § 2; 76 Del. Laws, c. 52, § 1; 77 Del. Laws, c. 227, § 2.)

### **§ 7560 Transition.**

Transferred to § 7559 of this title by 76 Del. Laws, c. 52, § 1, effective June 26, 2007.

## **Subchapter V**

### **Absentee Voting in Municipal Elections Except for the City of Wilmington**

#### **§ 7570 Purpose of subchapter; scope.**

It is the purpose and intent of the General Assembly in enacting this subchapter to provide those qualified electors of municipalities governed under subchapter IV of this chapter who are unable to appear at a municipal election to cast their ballots with the ability to cast a ballot to be counted in the total for the municipal election.

(76 Del. Laws, c. 52, § 2.)

#### **§ 7571 Persons eligible to vote by absentee ballot.**

Any person qualified under the provisions of a municipal charter to vote by absentee ballot in any municipal election held in that municipality ("elector") may vote by absentee ballot for any reason authorized by that municipality's charter or ordinances and for any of the following reasons:

(1) Because such person is in the public service of the United States or of this State, or is a citizen of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia, or such person's spouse or dependents when residing with or accompanying the person, or is absent from this State because of illness or injury received while serving in the armed forces of the United States; or

- (2) Because such person is in the armed forces of the United States or the Merchant Marines of the United States, or attached to and serving with the armed forces of the United States in the American Red Cross or United Service Organizations; or
  - (3) Because of the nature of such person's business or occupation, including the business or occupation of providing care to a parent, spouse or that person's child who is living at home and requires constant care due to illness or injury; or
  - (4) Because such person is sick or physically disabled; or
  - (5) Because such person is absent from the municipality while on vacation; or
  - (6) Because such person is unable to vote at a certain time or on a certain day due to the tenets or teachings of that person's religion.
- (76 Del. Laws, c. 52, § 2.)

### **§ 7572 Request for ballot; affidavits for absentee ballots; delivery of absentee ballots.**

- (a) An elector desiring to vote by absentee ballot in an election for which the elector is a qualified elector may request an absentee ballot from the municipality where the elector is qualified to vote by filing a written affidavit with the municipality no later than 12:00 noon the day before the election.
- (b) An affidavit may be filed pursuant to this section by mailing it, delivering it, or causing it to be delivered to the municipality where the elector is qualified to vote.
- (c) Affidavits filed pursuant to this section shall:
  - (1) Indicate the election or elections for which the elector is requesting an absentee ballot;
  - (2) Include at least the following information:
    - a. The elector's name;
    - b. The address within the municipality at which the elector establishes eligibility to vote;
    - c. The address to which the elector requests that the absentee ballot be mailed;
    - d. The elector's date of birth;
    - e. The elector's expected location on election day;
    - f. The reason that the elector cannot appear at the regular polling place on the day of the election which reason shall be any of the reasons listed in § 7571 of this title.
    - g. A telephone number, if available, to assist in resolving any challenge;
    - h. An e-mail address, if available, to assist in resolving any challenge; and
    - i. The elector's signature;
  - (3) Be subscribed and sworn to by the elector, before an officer authorized by law to administer oaths affirming that under penalty of perjury, the information on the affidavit is correct and true except that the affidavit for a person voting in person at a municipality shall not be notarized but shall be accepted upon the voter presenting a form of ID acceptable by a notary.
- (d) Notwithstanding any other provision of this section to the contrary, the affidavit of any elector desiring to receive an absentee ballot because the person qualifies under any of the reasons set forth in § 7571(1), (2), (4) of this title or who qualifies to vote by absentee ballot as a nonresident of the municipality where such voting is allowed may be self-administered.
- (e) The State Election Commissioner shall create an absentee affidavit template that municipalities shall use in creating their own absentee affidavit by adding additional reasons that a person may vote by absentee ballot. The State Election Commissioner shall also designate envelopes and create a set of instructions for voters casting their votes by absentee ballot that municipalities may use to comply with the provisions of this subchapter.
- (f) The municipality may adopt a printed or electronic affidavit form (or both), containing blanks associated with each item required by this section to be listed on an affidavit, which may be completed by any elector wishing to receive an absentee ballot pursuant to this section. An elector may submit a written or electronic request to the municipality for the municipality prepared affidavit form, which the municipality shall forward to the elector upon receipt of a request therefore.

(76 Del. Laws, c. 52, § 2; 77 Del. Laws, c. 227, § 2.)

### **§ 7573 Distribution of ballots, envelopes, and instructions; envelope specifications; prepaid postage.**

- (a) Upon receipt of an affidavit from an elector pursuant to § 7572 of this title, the municipality shall process the same and confirm that the elector qualifies for an absentee ballot pursuant to § 7571 of this title.
- (b) Not more than 60 nor less than 4 days prior to an election, and within 3 days after the absentee ballots, envelopes, and instructions therefore become available, the municipality shall mail, to each elector who requests and qualifies for an absentee ballot pursuant to § 7571 of this title, the following:
  - (1) An absentee ballot for the municipal election in which the elector is qualified to vote;
  - (2) Instructions for completing the absentee ballot and returning it to the municipality, marked "INSTRUCTIONS FOR COMPLETING AND RETURNING AN ABSENTEE BALLOT"; and
  - (3) An envelope marked "BALLOT ENVELOPE", which shall be:

- a. Of the type known as a security mailing envelope, designed to securely protect the contents thereof from tampering, removal, or substitution without detection;
- b. Large enough to carry the ballot; and
- c. Addressed for return to the municipality where the elector is qualified to vote.

(c) Postage for all mailings made pursuant to this subsection shall be prepaid by the municipality.

(d) Nothing contained in this section shall prevent the issuance of an absentee ballot to those lawfully entitled thereto when the request is made less than 4 days prior to the election.

(76 Del. Laws, c. 52, § 2.)

### **§ 7574 Requirements for ballot envelope; numbering and coding; voter identification label; affidavit of eligibility.**

(a) The municipality shall provide to each elector to whom it sends an absentee ballot an envelope which shall be:

- (1) A color other than white;
- (2) Large enough to hold a completed ballot; and
- (3) Designed to protect its contents from tampering, removal or substitution without detection.

(b) Upon each envelope provided pursuant to this section shall appear:

- (1) The words "BALLOT ENVELOPE";
- (2) An alpha-numeric symbol and/or barcode for use in accounting for the absentee ballot;
- (3) Identification information for the elector receiving the absentee ballot, including: the name of the municipality where the elector is qualified to vote; the elector's name; the elector's mailing address; the address within the municipality that establishes the elector's eligibility to vote if different from the elector's mailing address; and such other information as the municipality may require; and
- (4) The following oath:

"I do solemnly swear (affirm) that to the best of my knowledge I am eligible to vote in this municipal election and that the address that appears on the label on this envelope is the address at which I am qualified to vote in this municipal election. I also do solemnly swear (affirm) under penalty of perjury that I have not received or accepted, or offered to receive or accept, any money or other item of value as compensation, inducement or reward for the giving or withholding of a vote at this municipal election, nor that I am acting under duress or threat of duress or harm."

- (5) The voter's signature.

(76 Del. Laws, c. 52, § 2.)

### **§ 7575 Voting procedure; execution of affidavit; return of ballot.**

The procedure for completing an absentee ballot and returning it to the municipality is as follows:

(1) An elector who receives an absentee ballot pursuant to this chapter shall complete the ballot by marking it with the elector's selections and shall place the completed ballot in the envelope marked "BALLOT ENVELOPE."

(2) The elector shall confirm that the information about that elector on the ballot envelope is correct and then sign the self-administered oath.

(3) The elector shall then seal the ballot envelope.

(4) The elector shall return the sealed ballot envelope to the municipality by:

- a. Depositing it in a United States postal mailbox, thereby mailing it to the municipality issuing the ballot; or
- b. Delivering it, or causing it to be delivered, to the municipality before the polls close on the day of the election.

(76 Del. Laws, c. 52, § 2.)

### **§ 7576 Time limit for return of ballot; late ballots.**

(a) Each municipality shall endorse the date and time of receipt on the ballot envelope of each absentee ballot received by the municipality.

(b) Notwithstanding any other provision of this chapter, for an absentee ballot to be counted pursuant to this chapter, an elector voting by absentee ballot shall return the elector marked ballot to the municipality where the elector is qualified to vote before the polls close on the day of the election.

(c) Each municipality shall retain unopened any ballot envelope it receives after the polls close on the day of the election for 60 days after the election, or longer if directed by proper authority or required to do so by federal law.

(76 Del. Laws, c. 52, § 2; 77 Del. Laws, c. 152, § 1.)

### **§ 7577 Procedure on receipt of ballot envelope by municipality.**

(a) Upon receipt of a ballot envelope the municipality, or a person authorized by the municipality, shall:

- (1) Ascertain the names of each elector as they appear on the face of each ballot envelope;

(2) Ascertain from the information on the ballot envelope the municipal election district with whose votes the ballot within it shall be tallied; and

(3) Place the ballot envelope in a secure location until such time as it is opened and the ballot within it is counted.

(b) No agent or employee of the municipality shall open or attempt to open the ballot envelope, or change or alter or attempt to change or alter the ballot envelope, or any writing, printing or anything whatsoever thereon.

(76 Del. Laws, c. 52, § 2.)

### § 7578 Counting procedure for absentee ballots.

At any time between the opening and the closing of the polls on an election day, absentee election judges selected by a municipality's board of elections, shall count absentee ballots at a properly noticed public meeting in the municipality's offices or at the place of the election, at the municipality's discretion, in accordance with the procedures set out below. Anything herein to the contrary notwithstanding, at the discretion of the municipality, the board of elections may itself act as the absentee election judges.

(1) The municipality's board of elections shall appoint a sufficient number of teams of absentee election judges, each consisting of an odd number of electors, to open and tally the absentee ballots before the close of the polls. The board of elections shall be responsible for deciding all challenges and overseeing the process.

(2) The municipality shall provide a list of persons who have returned absentee ballots for review by the public and challengers at the meeting. Challenges must be made prior to the opening of the ballot envelope for the voter being challenged.

(3) If a person has challenged an absentee voter as provided in § 7557(d)(5) of this title, an absentee election judge shall give that person's ballot envelope to the board of elections who shall then hear the evidence and decide the challenge. If the board of elections upholds the challenge, the chairperson shall write the word "CHALLENGED" on the ballot envelope, the reason for the challenge and then sign the chairperson's own name. When the challenge is denied, the ballot envelope shall be returned to the team to be opened and counted. The board of elections, after the close of the polls, shall seal the ballot envelopes for all voters who were successfully challenged in a carrier envelope along with a log sheet showing the serial number of the carrier envelope.

(4) Where absentee ballots have been prepared for counting in advance of the opening of the polls in accordance with § 7579 of this title and are in a carrier envelope, the absentee election judges, upon opening a carrier envelope, shall verify that the serial number on the log sheet is the same as the serial number on the carrier envelope. If the numbers are not the same, the judges shall report the discrepancy to the board of elections and then follow the instructions of the board regarding that carrier envelope. If there are no discrepancies or the discrepancy has been resolved, the team shall remove the ballots from the carrier envelope.

(5) Where the ballots are in the ballot envelopes, a team of absentee election judges shall:

a. Check the ballot envelopes against the list of absentee voters. The teams shall not process any ballot envelopes that the municipality has not listed as returned on the list of absentee voters until the discrepancy has been resolved to the board of election's satisfaction.

b. Reject ballot envelopes that the voter did not sign or seal, or for a voter who is known to be dead. An absentee election judge shall print the word "REJECTED" and the reason for the rejection on the front of the ballot envelope and then at least 2 of the absentee elections judges shall initial beside the entry.

c. Open each ballot envelope in such a manner as not to deface or destroy the self-administered affidavit thereon or the absentee ballot enclosed and then remove the ballot in such manner as to avoid seeing the markings thereon from the ballot envelope. If there is no ballot in the ballot envelope or if there is more than 1 ballot in a ballot envelope, an absentee election judge shall write the word "REJECTED" and the reason for the rejection on the front of the ballot envelope and then at least 2 absentee elections judges shall initial beside the entries. In the case where there was more than 1 ballot in a ballot envelope, the team shall put the ballots back into the ballot envelope.

d. Once an absentee ballot judge has removed a ballot from a ballot envelope, the judge shall put it face down on the table without examining it. The team shall open ballot envelopes until they have a sufficient number of ballots and ballot envelopes to fill a carrier envelope, create a predetermined batch, or they have opened all of the ballot envelopes for a municipal election district or the election, whichever occurs first. The team shall then shuffle the ballots and then proceed to tally the votes for that group of ballots.

(6) The team of absentee election judges shall then tally the votes for a group of ballots on absentee vote tally sheets with one 1 person reading the votes and 2 others tallying the votes on separate absentee vote tally sheets. Once the team has tallied a group of ballots, they shall verify that the results on both absentee vote tally sheet are the same. If the results are not the same, the team shall re-tally the votes until the result is the same. During the tally process, the team shall:

a. Attempt to determine the voter's intent pursuant to § 4972 of this title in the event that a voter did not mark the ballot as instructed; and

b. Tally votes for write-in candidates on the absentee vote tally sheets if the municipality's charter or code permits write-in votes.

(7) Once a team has tallied the absentee votes for a group of ballots, the members shall sign both copies of the absentee vote tally sheet and then put the voted ballots, rejected ballots, ballot envelopes, and 1 copy of the absentee vote tally sheet into a carrier envelope. The team shall then complete the log sheet showing the serial number of the carrier envelope, put the log sheet into the carrier envelope

and then seal the carrier envelope. The team shall then give the carrier envelope and the second copy of the absentee vote tally sheet to the board of elections.

(8) Upon receipt of a carrier envelope and the second copy of the absentee vote tally sheet for that carrier envelope, the board of elections shall:

a. Put the carrier envelope in a secure location until such time it is needed for a recount, legal action, or is to be destroyed as provided in this chapter; and

b. Record the results from the absentee vote tally sheet onto a master absentee vote tally sheet for the election. After the board of elections has received all of the absentee vote tally sheets and has entered the results for each candidate on the master absentee vote tally sheet, the board shall total the votes for each candidate and then, after the polls have closed, enter the results on the vote tabulation for the election. The board of elections shall then seal the absentee vote tally sheet or sheets in a carrier envelope along with a log sheet showing the serial number of the carrier envelope.

(9) Ballot envelopes received after the ballots have been counted or the ballots for a specific municipal election district have been counted shall be opened and tallied in accordance with the above procedure except that they all shall be sealed in 1 or more carrier envelopes, as necessary, after the polls have closed.

(10) The teams shall repeat the above process as many times as necessary in order to count the absentee ballots.

(11) A municipality that permits absentee voting shall establish a procedure to insure that persons who voted by absentee ballot shall not be permitted to vote at a polling place on the day of the election.

(12) Anything herein to the contrary notwithstanding, when the number of absentee ballots returned to the municipality is less than 5, the municipality may develop a counting procedure protective of the secrecy of the ballot.

(76 Del. Laws, c. 52, § 2; 70 Del. Laws, c. 186, § 1.)

### **§ 7579 Preparing absentee ballots to be counted.**

Notwithstanding any other provision of this chapter, the board of election of any municipality may open absentee ballot envelopes in a public meeting in order to prepare them to be counted. Such meeting shall take place, upon proper notice, at any time between 8:00 a.m. of the day prior to the election and up to 1 hour before the polls are scheduled to open. The municipality shall notify each candidate on the ballot that they may have challengers at the meeting during which the board of election opens the absentee ballots. At such meeting, the board of elections shall act in accordance with the same procedures as set out in § 7578(1), (2), (3), and (5)(a) through (d) of this title inclusive, with the exception that the absentee ballot judges shall not proceed to tally the votes for any group of ballots but shall then secure such ballots, ballot envelopes, and any rejected ballot envelopes in a carrier envelope along with the log sheet showing the serial number of the log sheet. The absentee ballot judges shall then seal the carrier envelope or envelopes and deliver it/them to the board of elections. The board of elections shall then secure the carrier envelope or envelopes in locked cabinets until opened at a subsequent public meeting to tally the ballots on the day of the election in accordance with § 7578(4) and (6) through (10) of this title.

(76 Del. Laws, c. 52, § 2.)

### **§ 7580 Carrier envelope specifications; carrier envelopes as ballot boxes.**

(a) The municipality shall purchase envelopes to be used as carrier envelopes, which shall be security mailing envelopes, designed to securely protect the contents thereof from tampering, removal, or substitution without detection and shall be large enough to accommodate multiple absentee ballots cast in the election.

(b) Carrier envelopes shall:

(1) For all purposes of this title be considered the official ballot boxes for absentee votes cast during a given election;

(2) Contain voted absentee ballots from a municipality;

(3) Be labeled to reflect the municipality whose absentee ballots are held inside; and

(4) Ensure the security of said ballots in the event they must be moved for the purposes of certifying an election or recounting votes cast in an election.

(c) A sealed carrier envelope may be reopened only when necessary to certify an election or recount votes cast in an election.

(d) In the event the municipality must move absentee ballots for the purposes of certifying an election, or recounting votes cast in an election, it shall select the carrier envelopes for the affected municipal election districts and move them, in a secure fashion, to the location where the carrier envelopes will be opened and the votes inside inspected.

(e) Upon completion of any inspection of votes pursuant to this subsection, absentee ballots shall be returned to the carrier envelopes from which they were removed and the carrier envelopes shall be:

(1) Resealed in a secure manner, or shall be placed in another security envelope, for the purposes of securely protecting the contents thereof from tampering, removal, or substitution without detection; and

(2) Put the carrier envelope in a secure location until such time it is needed for a recount, legal action, or is to be destroyed as provided in this chapter.

(76 Del. Laws, c. 52, § 2.)

### § 7581 Challenges.

(a) The ballot of any elector choosing to vote by absentee ballot may be challenged for the same causes and in the same manner as provided in this title for other voters.

(b) In addition, the vote of an absentee voter may be challenged:

(1) On the ground that the affidavit filed by the voter in compliance with § 7572 of this title is false; or

(2) On the ground that the self-administered affidavit on the ballot envelope is not signed.

(c) If a challenge is made pursuant to subsection (a) of this section, an absentee judge shall return the ballot to its ballot envelope, shall mark the ballot envelope as "CHALLENGED", and shall set the envelope aside in a secure location for consideration at a later time as provided elsewhere in this title. If a challenge is made pursuant to subsection (b) of this section, an absentee judge shall mark the ballot envelope as "CHALLENGED" and shall set it aside in a secure location for consideration at a later time as provided elsewhere in this title.

(d) All challenges to absentee ballots must be resolved before the counting of votes may be considered complete. Any challenge not resolved by the absentee judges within a reasonable time of the challenge having been made shall be referred to the board of elections for the municipality for resolution.

(76 Del. Laws, c. 52, § 2.)

### § 7582 Rejected ballots.

(a) No vote shall be accepted or counted if:

(1) The affidavit of the absentee voter that appears on the front of the ballot envelope is found to have been altered or is not signed; or

(2) The absentee voter is not a duly qualified elector entitled to vote in the municipality;

(3) The ballot envelope is open; or

(4) It is evident that the ballot envelope has been opened and resealed;

(5) It is evident that the ballot envelope has been tampered with or altered.

(b) If the ballot envelope has not been opened at the time an absentee judge decides that the offered ballot contained therein should not be accepted or voted for any of the reasons set forth in subsection (a) of this section, it shall not be opened but shall instead be endorsed thereon as, "REJECTED", giving reason therefore.

(c) If the ballot envelope has been opened at the time an absentee judge decides that the offered ballot contained therein should not be accepted or voted for any of the reasons set forth in subsection (a) of this section, the ballot shall be returned to its ballot envelope and the absentee judge shall endorse on the ballot envelope, "REJECTED", giving reason therefore.

(d) Whenever it is made to appear by due proof to an absentee judge that any absentee voter, who has marked and forwarded the absentee voter's ballot, has died, the ballot envelope containing the ballot shall not be opened but shall be marked "REJECTED, DEAD", and shall be preserved and disposed of as other rejected ballots.

(e) Whenever a ballot has not been counted but has been rejected pursuant to this section, the appropriate notation shall be made on the absentee ballot tally and the number of ballots so rejected shall be noted on the certificates of election.

(f) Ballots rejected pursuant to this section shall be deposited in a carrier envelope for the municipal election district to which they apply.

(76 Del. Laws, c. 52, § 2.)

### § 7583 Validity of absentee voter's ballot for wrong municipal election district.

If an absentee voter marks and returns an absentee ballot for a municipal election district other than the 1 of which the absentee voter is a duly registered elector, such ballot, because thereof, shall not be adjudged invalid, but, as indicated by the marking of the ballot by the voter, shall be counted as a vote for every candidate appearing thereon who is a candidate for an office to be duly voted for in the municipal election district.

(76 Del. Laws, c. 52, § 2.)

### § 7584 Procedure if requests or ballots sent to wrong official; absentee ballots received by election officers.

If any request for an absentee ballot and accompanying envelopes, or any marked ballot of any such elector are addressed to and returned to any official other than the proper official of the municipality where the elector is qualified to vote, then the official shall immediately transfer such request or returned marked ballot to the proper officer of the municipality where the elector is qualified to vote, to be acted upon by the municipality as provided by this subchapter.

(76 Del. Laws, c. 52, § 2.)

### § 7585 File of absentee voters.

(a) The municipality shall maintain records providing for the prevention of fraud and to make possible the tracing and detection of any attempt to do so. Such records shall include, but shall not be limited to, the following entries:

(1) The name of elector;

- (2) The address at which the elector establishes eligibility to vote;
- (3) The address where ballot is to be mailed;
- (4) The date the affidavit is received by the municipality;
- (5) The elector's municipal election district, if applicable;
- (6) The ballot envelope identification number;
- (7) The date the ballot is mailed or delivered to the elector; and
- (8) The date the ballot is returned.

(b) The municipality shall compile from its files a list of names and addresses of all applicants for absentee ballots, and shall, upon request, send current and complete copies thereof without cost to candidates on the ballot in the forthcoming election. Such lists shall be provided no later than 2 weeks prior to the date of the election.

(76 Del. Laws, c. 52, § 2.)

## ARTICLE X. - NOMINATIONS AND ELECTIONS

## 1001 - - COUNCIL NOMINATIONS.

Nominations for mayor and councilmembers shall be by petition and there shall be no party designation on any such petition beside the name of any candidate or on any ballot in any municipal election. Each nomination petition shall be signed by the candidate and shall, in addition, bear the signatures of ten (10) qualified voters. The ten (10) qualified voters who sign a petition for mayor may be from the city at large, but the ten (10) qualified voters who sign a petition for councilmember must reside in the district from which the candidate seeks election. "Qualified voters," as used in this section, shall mean voters who are registered to vote in the election for which said petitions are filed at the time of the filing of the petition on which their names appear. The nominating petition for each candidate shall be filed at the office of the City Secretary during normal business hours as provided for by ordinance not later than the Monday which is between 60 and 66 days before the election.

Upon receipt of said petitions, they shall be checked forthwith by a member of the board of election for the validity of the names signed thereto.

(58 Del. Laws, Ch. 479; 79 Del. Laws, Ch. 60)

## 1002 - - ELECTION PROCEDURE.

**1002.1 - Voting Qualifications.** Every person domiciled in the City of Newark who shall have reached the age necessary to vote in an election held under the laws of the State of Delaware, who is a citizen of the United States and who has been domiciled in the city not less than twenty-four (24) days next preceding the day of the election, and whose name is recorded: (1) for elections conducted until December 31, 1988, in the registration book of the city, and/or (2) for elections conducted after December 31, 1987, in the list of registered voters provided to the city by the New Castle County Department of Elections, shall be entitled to vote at all regular and special municipal elections and referenda, except as otherwise provided in this charter. Domicile in any area annexed to the city by virtue of any action taken under this charter or general state law shall constitute, for the purpose of this section, domicile in the city.

Registration of voters in City of Newark municipal elections shall be administered and conducted pursuant to the provisions of Chapter 75, Title 15 of the Delaware Code.

(58 Del. Laws, Ch. 479; 66 Del. Laws, Ch. 64; H.B. No. 127, § 1, eff. 6-27-07)

**1002.2 - Election Officers.** All municipal elections shall be held by an election board consisting of not less than five (5) nor more than seven (7) qualified voters, not councilmembers, appointed by the council. The board may appoint official representatives to supervise election administration at each polling place. Should the members or representatives of the board be absent from any polling place at 7:00 a.m. on the day of the election, or fail or neglect to act in the conduct of such election during all the time the polls are open, the voters present shall choose such number of persons as shall be necessary to fill the places vacant due to the absence of the proper officials.

When the polls shall have been closed, the election officers shall publicly count the ballots and shall certify the results of the election to each of the persons elected and to the council.

(58 Del. Laws, Ch. 479)

**1002.3 - Absentee Voting.** The council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum.

(58 Del. Laws, Ch. 479; 66 Del. Laws, Ch. 64)

**1002.4 - Polling Places and Regulations.** The council shall designate the polling places which shall be open not less than twelve (12) hours as provided for by ordinance on all municipal election and referendum days. The council also shall by ordinance, make all necessary regulations not inconsistent with this charter or with state laws, for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud.

(58 Del. Laws, Ch. 479)

**1002.5 - Voting Machines.** Voting machines shall be used at all municipal elections and shall be so constructed as to permit the voter to vote for the candidates duly nominated pursuant to the provisions of this charter or to write in the name of any candidate of his choice for any office. The official ballots provided for municipal elections shall contain the names of all nominees for the office of mayor, listed alphabetically under a heading reading "NOMINEES FOR MAYOR." There shall be separate headings on the ballot reading "NOMINEES FOR COUNCIL DISTRICT NO. \_\_\_\_\_," and the names of the nominees for each district listed alphabetically under such headings.

(58 Del. Laws, Ch. 479)

CHAPTER 10 - ELECTIONS<sup>□</sup>

*Footnotes:*

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*Editor's note—Ord. No. 04-19, enacted July 26, 2004, amended Ch. 10 in its entirety to read as herein set out. Formerly, ch. 10 pertained to similar subject matter. See the Code Comparative Table for a detailed analysis of inclusion.*

*Charter references—Election of mayor and councilmen, Art. III, § 304; elections generally, Art. X; nominations for council positions, Art. X, § 1001.*

*State law reference—Elections generally, 15 Del. Code Anno. §§ 101—7719(1953).*

ARTICLE I. - ELECTION BOARD<sup>□</sup>

*Footnotes:*

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*Charter reference—Creation of an election board, Art. X, § 1002.2.*

*State law references—Composition, powers and duties of state election officers, 15 Del. Code Anno. § 4-4740(1953).*

Sec. 10-1. - Election board—Created; composition; appointment; terms of members; vacancy.

There is hereby created an election board that shall be composed of seven members appointed by council, with one member being appointed from each of the six districts into which the city has been divided for election purposes, and one member being appointed on an at-large basis.

Appointments shall be for three-year terms. Upon expiration of the term of appointment, a member shall serve until his/her successor has been duly appointed. All members may be appointed to successive terms. If a vacancy occurs during the term of any member of the election board, a person residing in the same numbered district shall be appointed by council to fill the remainder of said term.

(Ord. No. 04-19, 7-26-04)

Sec. 10-2. - Qualifications of members for appointment to election board.<sup>□</sup>

To be eligible for appointment to the election board, each prospective member shall be a citizen of the United States and shall have resided within the geographical boundaries of the city for one year next preceding his/her appointment. The mayor and the members of the city council, their immediate family, and city employees shall not be eligible for appointment to the election board.

(Ord. No. 04-19, 7-26-04)

*Footnotes:*

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*Charter reference—Composition and appointment of members of election board; vacancies, Art. X, § 1002.2.*

Sec. 10-3. - Members of election board to subscribe to oath of office.

Before entering upon their duties, and within 10 days from the date of their appointment, the members of the election board shall take and subscribe to the oath or affirmation prescribed by Section 1102 of the Charter of the City of Newark.

(Ord. No. 04-19, 7-26-04)

Sec. 10-4. - Annual meeting and organization of election board; elect president; term.

The election board shall meet annually by the last Saturday in January and shall organize by:

- (a) Electing one of its members president, the term of which shall be from one organization

meeting to the next and/or until a successor is duly elected;

- (b) Setting the hourly rate for clerical support; and
- (c) Setting the per diem rate for poll workers.
- (d) Poll workers. First preference for poll workers shall be the residents of the district holding the election, however, all poll workers shall be residents of the city as selected by the election board.

(Ord. No. 04-19, 7-26-04; Ord. No. 15-05, Amend. No. 1, 2-23-15)

Sec. 10-5. - Members of election board constituting quorum.

A majority of those members appointed to the election board shall be sufficient for the organization thereof and shall, in all cases, constitute a quorum for the transaction of business.

(Ord. No. 04-19, 7-26-04)

Sec. 10-6. - Power and authority of election board to adopt rules; establish guidelines and procedures.

- (a) The election board shall have full power and authority to make and adopt rules to carry out the purposes of this chapter consistent with the Constitution and Laws of the State of Delaware and the charter and ordinances of the city.
- (b) The election board shall establish guidelines which shall enumerate the duties of the board and election officials and the procedures for implementing such duties.

(Ord. No. 04-19, 7-26-04)

Sec. 10-7. - Salary of members of election board; per diem allowance.

The members of the election board shall serve without salary, but shall be paid a per diem allowance of \$75.00 for each election day provided that a minimum of eight hours is worked by said election board member on such election day.

(Ord. No. 04-19, 7-26-04)

Sec. 10-8. - Expenses of election board; paid on vouchers.

The reasonable and necessary expenses, including clerical expenses in preparation for an election, shall be paid at an hourly rate set by the election board at its annual organization meeting.

(Ord. No. 04-19, 7-26-04)

## ARTICLE II. - REGISTRATION FORMS

Sec. 10-9. - Right to lists of registered voters; availability.

- (a) Registration lists shall be made available for review upon request not more than 10 days after such lists are provided to the city by New Castle County.
- (b) The election board shall supply free of charge to each candidate two of each of the above lists of registered voters who reside in the district from which they seek election.
- (c) Candidates for mayor shall be supplied free of charge with two of each of the above lists of registered voters in all districts.
- (d) Each of the above registration lists shall be available to others for the cost of reproduction.

(Ord. No. 04-19, 7-26-04)

## ARTICLE III. - TRANSFER OF REGISTRATION AND CHANGE OF ADDRESS OR NAME

Sec. 10-10. - Transfer of registration upon change of election district boundaries; notice; effect of errors.

When the boundaries of an election district are changed, the election board shall promptly notify the county election board of such change. Upon receipt by the city of a new registration list reflecting such change, each registrant whose district of residence is changed thereby shall be notified of the change by ordinary mail. The registration of any voter shall not be invalidated nor shall the right of any registered voter to vote be prejudiced by any error in making transfers of the registration records.

(Ord. No. 04-19, 7-26-04)

Sec. 10-11. - Transfer of registrations between districts; change of address or name.

When a registered voter moves from one election district to another within the city, or changes address or residence within the same election district, or changes his or her name, by marriage or otherwise, he/she shall comply with the procedures for application for transfer or the giving of notice as provided in Chapter 17, Title 15 of the Delaware Code.

Any registered voter who changes his or her name, by marriage or otherwise, and continues to reside within the same election district, shall not be disqualified as a voter in such election district for reason of such change.

(Ord. No. 04-19, 7-26-04)

Sec. 10-12. - Annexations.

Whenever the city shall approve an annexation plan, the residents of the annexed property shall be eligible to register for and vote in municipal elections. Each new registrant affected by the annexation shall be notified of his/her eligibility by the election board by ordinary mail.

(Ord. No. 04-19, 7-26-04)

#### ARTICLE IV. - REGISTRATION PROCEDURE

Sec. 10-13. - Registration.

Except as provided herein, the registration of voters in the city shall be governed by and conducted in accordance with the procedures set forth in Title 15 of the Delaware Code.

(Ord. No. 04-19, 7-26-04)

Sec. 10-14. - Eligibility to register to vote.

To be eligible to register to vote in any regular or special municipal election in the City of Newark, a person shall be 18 years of age, a citizen of the United States, and shall have been domiciled in the City of Newark for not less than 24 days next preceding the day of said election.

(Ord. No. 04-19, 7-26-04)

#### ARTICLE V. - NOMINATIONS

Sec. 10-15. - Mayor and city council nominations by petitions.

All nominations for mayor and city council shall be by petition. Any nominee shall be given a copy of the city charter and election ordinance.

(Ord. No. 04-19, 7-26-04)

Sec. 10-16. - Party designations prohibited.

There shall be no party designation on any petitions or beside the name of any candidate for office.

(Ord. No. 04-19, 7-26-04)

Sec. 10-17. - Signatures required on nomination petitions; "qualified voter" defined.

- (a) *Signatures.* Each nomination petition shall be signed by the candidate and, in addition, shall bear the signatures and printed names of 10 qualified voters in the case of petitions for mayor and the signatures and printed names of 10 qualified voters residing in the district from which the candidate seeks election in the case of petitions for city council.
- (b) *Qualified voter defined.* Qualified voter, as used in this article, shall mean a person who is registered to vote in the municipal election for which petitions are filed at the time of the filing of the petition on which his/her name appears.

(Ord. No. 04-19, 7-26-04)

Sec. 10-18. - Filing nominating petitions; check qualifications.

The nominating petition for each candidate shall be filed with the city secretary between the hours of 8:30 A.M. and 5:00 P.M., not later than the Monday which is between 60 and 66 days before the next municipal election. In the event that the city secretary is absent, said petition may be filed during the aforesaid hours with one of the regular employees in the office of the city secretary. Upon receipt of said petition, a member of the board of election shall check the qualifications of the candidate and verify that the signers are qualified voters.

(Ord. No. 04-19, 7-26-04; Ord. No. 13-19, Amend. No. 1, 7-22-13)

Sec. 10-19. - Conduct of election when only one candidate.

In the event there is only one candidate for the office of mayor, or only one candidate for the office of council member in any election district, who has qualified as a candidate under Sections 10-15, 10-16, 10-17, and 10-18 (official candidate), the election board shall declare the candidate elected, and said candidate shall assume office, and no formal election for that office shall be held (all sections of this election code relating to election, ballots, polling places, the conduct of elections, and other mechanics of the election to the contrary notwithstanding).

(Ord. No. 04-19, 7-26-04)

ARTICLE VI. - ELECTION DAY, TIME, AND POLLING PLACES

Sec. 10-20. - General and special municipal elections; days and hours of election.

A regular municipal election shall be held annually on the second Tuesday in April. All other municipal elections that may be held shall be known as special municipal elections. In each election, the polls shall be open at 7 A.M. and shall close at 8 P.M.

(Ord. No. 04-19, 7-26-04)

Sec. 10-21. - Notice of election; publication; contents.

Notice of all municipal elections shall be published in two newspapers of general circulation within the city at least once during the week preceding said election day. Said notice shall specify the polling place for each election district and the hours for voting.

(Ord. No. 04-19, 7-26-04)

Sec. 10-22. - Separate polling places for each district.

Separate polling places shall be provided by the election board in all municipal elections for each election district.

(Ord. No. 04-19, 7-26-04)

#### ARTICLE VII. - VOTING MACHINES AND ELECTION SUPPLIES

Sec. 10-23. - Voting machines.

Voting machines shall be used in all municipal elections and referenda.

(Ord. No. 04-19, 7-26-04)

Sec. 10-24. - Furnishing of voting machines; number.

Arrangements shall be made with the department of elections for New Castle County for the use of an adequate number of voting machines in order to conduct all municipal elections. Where possible, voting machines shall be furnished in the ratio of at least one machine for each 600 registered voters.

(Ord. No. 04-19, 7-26-04)

Sec. 10-25. - Method of listing candidates on ballot and space provided for write-in.

- (a) The names of all duly nominated candidates for the office of mayor shall be listed alphabetically reading "NOMINEES FOR MAYOR." There shall be separate headings on the ballot reading 'NOMINEES FOR COUNCIL DISTRICT NO. \_\_\_\_', and the names of the nominees for each district shall be listed alphabetically.
- (b) There shall also be provided sufficient space and writing instruments to permit the voter to write in the name of any candidate of his choice for the offices listed on the ballot.

(Ord. No. 04-19, 7-26-04)

Sec. 10-26. - Preparation of polling places and voting machines for elections.

- (a) The election board shall ensure that voting machines and all necessary furniture and appliances are at the polling places before the time fixed for the opening of the polls.
- (b) Counters on voting machines shall be set at zero and shall be in good and proper order for use at the election. The voting machines shall then be immediately sealed with a numbered seal and locked against voting.

(Ord. No. 04-19, 7-26-04)

Sec. 10-27. - Voting machines to be adjusted.

Voting machines shall be so adjusted that when one or more choices, equaling the total number of persons to be elected to an office, shall have been made, all other choices used in connection with that office shall be thereby locked. Below the last candidate's name in any vertical column, the choices, if there be any under the title or titles of office or offices, shall be locked; all choices shall be locked in any row or column which contains no names of candidates, and all choices shall be locked in spaces, if any, which do not contain names of candidates even though names of candidates appear in other spaces in the same row or column.

(Ord. No. 04-19, 7-26-04)

Sec. 10-28. - Certification of voting machine numbers and counter set; public record.

The election board shall certify the following:

- (a) The numbers of the voting machines;
- (b) That all counters are set at zero; and
- (c) The number registered on the protective counter and on the seal.

Such certification shall constitute a public record and shall be on file in the office of the election board.

(Ord. No. 04-19, 7-26-04)

Sec. 10-29. - Voting machines to be protected against tampering, destruction, or injury.

After the voting machines are transferred to the polling places, the election board shall provide ample protection against tampering, destruction, or injury to the machines.

(Ord. No. 04-19, 7-26-04)

Sec. 10-30. - Election officers to be instructed on use of voting machines.

Not more than five days prior to the date of election, the election board shall cause the election officers, who are to serve in an election district, to be instructed in the use of the voting machines and in their duties in connection therewith.

(Ord. No. 04-19, 7-26-04)

Sec. 10-31. - Ballots to accommodate absentee voters required; form and content; exclusive use of ballots.

- (a) Notwithstanding the provisions of this article, the Election Board shall ensure that sufficient ballots, affidavits, and envelopes are prepared to accommodate those voters desiring to cast absentee ballots as permitted by Article IX of this chapter. The ballots shall have printed or stamped on their faces the words "ABSENTEE BALLOT" and shall be differentiated one from another by district by distinctive coloring, shall contain a list of all duly nominated candidates in alphabetical order under the offices to which they seek election, shall contain a box opposite each name, shall provide sufficient space as to permit the voter to write in the name of any candidate of his choice for the offices listed on the ballot, and shall contain a short, concise statement indicating the method and manner of voting the ballot. No such ballot shall contain any party designation, and such ballots shall be available at least 10 days after the last day for filing of nominating petitions.
- (b) The ballots to be provided pursuant to this section shall be used only at the election for which they were prepared.

(Ord. No. 04-19, 7-26-04)

Sec. 10-32. - Sample ballots.

In addition to the official ballots provided for in this article, the election board shall cause sample ballots to be printed. No sample ballots shall be the same color as any official ballots and each sample ballot shall be plainly marked "SAMPLE-NOT TO BE VOTED."

(Ord. No. 04-19, 7-26-04)

Sec. 10-33. - Voter signature cards.

The election board shall provide a sufficient supply of voter signature cards of a sufficient size to record the voter's signature, printed name, election district number, address, and date.

(Ord. No. 04-19, 7-26-04)

ARTICLE VIII. - VOTING QUALIFICATIONS AND PROCEDURE

Sec. 10-34. - Eligibility to vote in special and regular municipal elections.

To be eligible to vote in any regular or special municipal election, a person shall be a registered voter of the district in which he resided on the last registration day preceding said election and shall be a resident of the city on the day of said election.

(Ord. No. 04-19, 7-26-04)

Sec. 10-35. - Voter to vote only in district where registered; transfer of residence; exception.

In any regular or special municipal election, no person shall vote in any district other than the district in which he/she is a registered voter. In the event of a transfer of residence by a registered voter from one district to another, and if there is no registration day between the time of his transfer of residence and the date of the next regular or special election, he shall be entitled to vote at the election in the district in which he is registered.

(Ord. No. 04-19, 7-26-04)

Sec. 10-36. - Procedure for obtaining permission to vote.

A voter, upon entering the polling place, shall announce his name and address. The election officers shall first determine whether the voter appears on the registration list for that district and if it appears that the voter is properly listed, an election officer shall hand the voter a card on which the voter shall record his signature, printed name, and address. The election officers shall require the voter to produce his driver's license, or other credible form of identification in order to confirm the identity of the voter.

(Ord. No. 04-19, 7-26-04)

Sec. 10-37. - Identification of voter under certain circumstances.

In the event the voter is unable to sign a voter signature card, the election officers shall determine the identity of the voter by other means.

(Ord. No. 04-19, 7-26-04)

Sec. 10-38. - Procedure for questioning identity.

In the event a voter's identity is questioned, the election officer shall immediately notify the election board. The election board shall review the action of the election officer and determine whether or not the person shall be permitted to vote. If the board determines that the person is not permitted to vote, his signature card shall be marked "NOT PERMITTED TO VOTE" and shall be signed by the members of the board so determining.

(Ord. No. 04-19, 7-26-04)

Sec. 10-39. - Procedure when permission to vote is granted.

- (a) In the event the voter is permitted to vote, the voter shall give his signature card to the election official at the voting machine.
- (b) As the voter enters the voting machine, the election official at the voting machine shall say "(CALLING THE VOTER BY NAME) IS VOTING," at which time the election clerks shall mark the copy of the registration list appropriately.
- (c) The election official shall then give the voter's signature card to a clerk who shall secure it in an appropriate file box.

(Ord. No. 04-19, 7-26-04)

Sec. 10-40. - Challenging right to vote; grounds; determination of right to vote.

Any member of the election board, any of its clerical assistants, any candidate, or any registered voter may challenge the right of a person to vote at a regular municipal or special election. The cause for challenge shall be limited to one of the following:

- (a) The failure of the name of the person to appear in the registration records.
- (b) The person not being a resident of the city.
- (c) The person not being a resident of the district in which he seeks to vote on the last day for registration preceding the election.

In the event of such a challenge, the person's right to vote shall be determined by the election board. If the board determines that the person should not be permitted to vote, that decision shall be recorded and signed by a majority of the members present.

Eligibility to vote at any regular municipal or special election shall be determined based upon a list of registered voters provided to the city by the county election board. Liability for refusal of permission to vote at such election shall rest solely on the city unless it shall be subsequently shown that such refusal of permission to vote was based on an incorrect registration list.

(Ord. No. 04-19, 7-26-04)

Sec. 10-41. - Procedure for counting ballots.

- (a) As soon as the polls are closed, the election official in charge of the voting machine shall immediately lock and seal the voting machine against voting.
- (b) Absentee ballots shall be counted as provided in Section 10-50.
- (c) The election official shall then sign a certified statement that:
  - (1) The voting machine has been locked against voting, and sealed;
  - (2) The number of voters as shown on the public counter;
  - (3) The number on the seals; and
  - (4) The number registered on the protective counter.
- (d) The election official in charge of the voting machine shall then open the counting compartments in the presence of one representative for each candidate within the polling place giving full view of all the counter numbers.
- (e) The vote as registered shall be verified by all election officials present at the polling place.
- (f) The official announcement of the result of the election shall be made at the municipal building as soon after the polls have closed as possible.

(Ord. No. 04-19, 7-26-04)

Sec. 10-42. - Filling out and certifying tally sheet—Proclamation of vote by election board.

After the procedures provided for in Section 10-41 have been completed, the election officer in charge shall fill out and certify a tally sheet showing the total number of votes cast for each candidate including any votes cast by absentee ballot. The election officer in charge shall then deliver the certificate, duly certified, to the election board at such place as it may designate, and the election board shall tabulate and proclaim the vote.

(Ord. No. 04-19, 7-26-04)

Sec. 10-43. - Voting machines compartments and doors to be locked upon completion of vote count.

The election officials shall, as soon as the counting of the votes is completed and fully ascertained as required by this article, secure the voting machines so as to insure the voting machines remain secured until returned to the custody of the board of elections for New Castle County.

(Ord. No. 04-19, 7-26-04)

ARTICLE IX. - ABSENTEE VOTING AND BALLOTS

Sec. 10-44. - Persons eligible.

Any registered voter who shall be unable to go to the polling place in order to vote at a municipal election may vote at such election as provided in this article.

(Ord. No. 04-19, 7-26-04)

Sec. 10-45. - Availability of ballots.

The election board shall make official absentee ballots available to absentee voters during business hours at the city secretary's office beginning not later than ten full days after the last day for filing nominating petitions and ending at 5 PM on the day preceding the election.

(Ord. No. 04-19, 7-26-04)

Sec. 10-46. - Delivery of ballot to absentee voter-in person; by agent; by mail.

- (a) Absentee ballots may be delivered to an absentee voter in person or to his agent upon signed request of such absentee voter.
- (b) Absentee ballots shall be mailed to eligible absentee voters upon their request in writing.

(Ord. No. 04-19, 7-26-04)

Sec. 10-47. - Affidavit to accompany ballot.

With each absentee ballot, there shall also be delivered the following form of affidavit:

"I do solemnly swear (or affirm) that I am a registered voter in the City of Newark; that my voting address is \_\_\_\_\_; in Newark Election District No. \_\_\_\_\_; and that I expect to be unable to go to the polling place on the day the municipal election set for \_\_\_\_\_.

I further swear (or affirm) that I marked the enclosed ballot in secret.

(Signed) \_\_\_\_\_

(Write name here)

\_\_\_\_\_

(Print name here)

Subscribed and sworn (or affirmed) to before me, this \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_\_; and who hereby certifies that the affiant did, in such a manner that I could not see his vote, mark such ballot, and that the affiant was not solicited or advised by me to vote for or against any candidate or candidates.

(Signed) \_\_\_\_\_

(Notary Public, Attending Physician, or Commanding Officer)

(Ord. No. 04-19, 7-26-04)

Sec. 10-48. - Return of absentee ballots and affidavits-time limit.

In order for an absentee ballot to be counted, it must be returned to the election board by mail or messenger before the closing of the polls on election day.

(Ord. No. 04-19, 7-26-04)

Sec. 10-49. - Absentee ballots in sealed envelopes required; defective affidavit.

(a) Absentee ballots, together with executed affidavits, shall be returned to the election board in sealed "CARRIER" envelopes. The sealed "CARRIER" envelope shall have marked or stamped on its face the name, address, and election district of the absentee voter. The "CARRIER" envelope shall contain:

- (1) The executed affidavit; and
- (2) The sealed "VOUCHER" envelope in which the ballot is enclosed.

(b) If the sealed "CARRIER" envelope fails to contain a properly filled out and executed affidavit by the absentee voter, the ballot in the sealed "VOUCHER" envelope shall not be counted.

(Ord. No. 04-19, 7-26-04)

Sec. 10-50. - Counting absentee ballots—Procedure; disposition of challenges.

(a) The election board shall cause the name and address of each person casting an absentee ballot to be read aloud so to afford a candidate the opportunity of challenging any ballot. Disposition of challenges shall be made in the same manner as provided in Section 10-40 hereinabove.

(b) The election board shall cause all "VOUCHER" envelopes to be opened and the absentee ballots therein counted aloud. In counting absentee ballots, the affidavits and the ballots shall be separated prior to the time of counting.

(Ord. No. 04-19, 7-26-04)

Sec. 10-51. - Absentee voter lists to be maintained—Inspection by candidates.

The election board shall cause to be maintained in the city secretary's office a list of all applicants for absentee ballots and said lists shall be open for inspection by any candidate for mayor or city council.

(Ord. No. 04-19, 7-26-04)

ARTICLE X. - UNLAWFUL ACTS RELATING TO ELECTIONS

Sec. 10-52. - False statements on application for registration.

No person shall knowingly make any material false statement relating to his application for

registration.

(Ord. No. 04-19, 7-26-04)

Sec. 10-53. - Impersonating a voter; voting under false or assumed name.

No person shall impersonate a voter, or vote or attempt to vote in the name of another person, living or dead, or vote under a false, assumed, or fictitious name.

(Ord. No. 04-19, 7-26-04)

Sec. 10-54. - Voting more than once.

No person shall cause more than one vote in any election or vote in more than one district in any election.

(Ord. No. 04-19, 7-26-04)

Sec. 10-55. - Offering or accepting a bribe.

No person shall offer or accept any money or other valuable consideration for casting a ballot.

(Ord. No. 04-19, 7-26-04)

Sec. 10-56. - Printing or delivering ballots to unauthorized persons.

No person shall print for delivery or deliver any official ballot to any unauthorized person.

(Ord. No. 04-19, 7-26-04)

Sec. 10-57. - Violation of article declared misdemeanor.

Any person who shall commit any of the acts prohibited in this article shall, upon conviction thereof, be adjudged guilty of a misdemeanor and shall be punished in accordance with Section 1-9 of the Code of the City of Newark, Delaware.

(Ord. No. 04-19, 7-26-04)

#### ARTICLE XI. - ELECTION DISTRICTS

Sec. 10-58. - Election districts.

Pursuant to the authority and requirements of Section 104 et seq. of the Charter of the City of Newark, the City of Newark is hereby reapportioned into six districts as follows:

- (a) District One shall consist of all that part of the city bounded on the east by the CSX Railroad right-of-way from West Main street to its intersection with Barksdale Road at the Apple Road bridge; on the south by Barksdale Road to the present city limits; on the west by the present city limits; and, on the north by Nottingham Road from the present city limits easterly to the CSX Railroad right-of-way.
- (b) District Two shall consist of all that part of the city bounded on the east by the present city limits; on the north by the White Clay Creek to McKees Lane; south to the CSX Railroad right-of-way; thence to the west boundary of the Kelway Plaza subdivision; thence south to East Main Street; thence west to Academy Street; on the west by Academy Street from East Main Street to East Delaware Avenue; thence east on East Delaware Avenue to Haines Street on East Main Street; thence southerly on Haines Street to Chambers Street at Benny Street; thence

southerly on Benny Street to Ashley Road; thence on Ashley Road westerly to Manuel Street; thence on Manuel Street southerly to Kells Avenue; thence easterly to the end of Kells Avenue westerly along the Amtrak Railroad right-of-way to South College Avenue; thence southerly to the present city limits.

- (c) District Three shall consist of all that part of the city bounded on the east by South College Avenue from the present city limits northerly to the Amtrak Railroad right-of-way; thence westerly to Apple Road; thence northerly to Dallas Avenue; thence easterly on Dallas Avenue to Beverly Road; thence northerly on Beverly Road to Ritter Lane; thence easterly on Ritter Lane to Orchard Road; thence northerly on Orchard Road to West Park Place; on the north by West Park Place at Orchard Road westerly to Apple Road; thence on Apple Road to Elkton Road; thence southwesterly by Elkton Road from Apple Road to its intersection with Lincoln Drive; thence northwesterly on the south side of Lincoln Drive, to Madison Drive, following the south side of Madison Drive to its intersection with Thorn Lane; thence westerly on the south side of Thorn Lane to and along Casho Mill Road; thence north on Casho Mill Road to Barksdale Road; thence westerly to the present city limits; thence southerly along the present city limits to the aforementioned point to South College Avenue.
- (d) District Four shall consist of all that part of the City bounded on the east by Haines Street from East Delaware Avenue to Haines Street at Chambers Street; thence south on South Chapel Street to Ashley Road; thence west on Courtney Street to Manuel Street; thence south on Manuel Street to Kells Avenue; thence east on Kells Avenue to the end of Kells Avenue; bounded on the south by the Amtrak Railroad right-of-way; bounded on the east by Apple Road from the Amtrak railroad right-of-way; thence northerly on Apple Road to Dallas Avenue; thence east on Dallas Avenue to Beverly Road; thence north on Beverly Road to Ritter Lane; thence east on Ritter Lane to Orchard Road; thence north on Orchard Road to West Park Place; thence west on West Park Place to Apple Road; thence north on Apple Road to Elkton Road; thence south on Elkton Road to Lincoln Drive; thence northwesterly on the north side of Lincoln Drive to Madison Drive; following the north side of Madison Drive to its intersection with Thorn Lane; thence northeasterly to the CSX Railroad right-of-way; thence westerly to Casho Mill Road; thence northeasterly to Barksdale Road; bounded on the north by Barksdale Road to Old Barksdale Road; thence south on Old Barksdale Road to the CSX Railroad right-of-way; northeasterly to West Main Street to East Main Street to the intersection of East Main Street and Academy Street.
- (e) District Five shall consist of all that part of the city bounded on the east of North College Avenue from its intersection with the present city limits; thence in a southerly direction to its intersection with Bogy Run; thence generally southwesterly along Bogy Run to its intersection with New London Road; thence southerly along New London Road to its intersection with Elkton Road; thence westerly on West Main Street to the present city limits; thence further northwesterly along Nottingham Road to the present city limits; thence northerly and then easterly along the present city limits to the intersection of said city limits and North College Avenue.
- (f) District Six shall consist of all that part of the city bounded on the east by the present city limits at Ridgewood Glen to the White Clay Creek to the Creek's intersection with McKee's Lane; thence south on McKees Lane to the CSX Railroad right-of-way to the Kelway Plaza westerly boundary to East Main Street; thence bounded on the south by East Main Street to West Main Street's intersection with Elkton Road; thence bounded on the west by New London

Road to its intersection with Bogey Run to North College Avenue; thence northeasterly at the present city limits to Possum Park Road; thence southeasterly along the present city limits to Ridgewood Glen.

(Ord. No. 04-19, 7-26-04; Ord. No. 11-27, Amend. No. 1, 12-12-11; Ord. No. 13-19, Amend. Nos. 2, 3, 7-22-13)

Sec. 10-59. - Registration; voters moving.

- (a) The said reapportioning provided in Section 10-58 of this chapter shall be effective January 1, 2002.
- (b) The election board shall proceed to transfer to the proper districts the registrations of those persons already registered and eligible to vote in the next regular election. Each registrant shall be notified by first class mail. Registration as required by law of persons not already registered and eligible to vote or of persons moving from one district to another shall be conducted in accordance with the districts established by this ordinance.

(Ord. No. 04-19, 7-26-04)

Sec. 10-60. - Savings clause.

None of the above changes shall affect the status of the current incumbents representing each election district.

(Ord. No. 04-19, 7-26-04)

Sec. 10-61. - Term in office.

The mayor and councilmen of the city shall continue to hold the office to which each has been elected until the term for which each has been elected shall expire or other wise terminate as provided by law.

(Ord. No. 04-19, 7-26-04)

## ARTICLE XII. - CONDUCT AT POLLS

Sec. 10-62. - Admission to polling places.

- (a) No person, other than members of the board of elections, election officials, persons actually voting and one challenger representing each duly nominated candidate on the ballot in that district, shall be admitted within the polling place or within 50 feet of the entrance thereof, except for the purpose of offering his/her vote. Other persons concerned with the conduct of the election may be admitted within the polling place or within 50 feet of the entrance thereof upon first obtaining consent of two election officials.
- (b) During the time that he/she is inside the polling place, every challenger, or other election official accredited as such, shall be identified by suitable identification plainly visible.

(Ord. No. 04-19, 7-26-04)

Sec. 10-63. - Challengers.

Each duly nominated candidate may appoint and accredit some suitable person as a challenger. One challenger for each duly nominated candidate may be present inside the polling place and shall be permitted to observe the conduct of the election and view all pertinent election records. The challengers may be changed and their places filled in like manner during the election day.

(Ord. No. 04-19, 7-26-04)

Sec. 10-64. - Admission to voting booth.

- (a) Only one voter at a time shall be permitted to enter the voting machine booth, except that any person who, because of physical disability requires assistance in casting his/her vote, shall be permitted to bring with him into the polling place and booth any elector or two electors for the purpose of rendering him/her the necessary assistance.
- (b) No voter shall remain in the voting machine booth longer than three minutes unless for good and sufficient reason he be granted a longer period of time by the election officials in charge. When the voter has cast his vote, the voter shall at once leave the room.

(Ord. No. 04-19, 7-26-04)

Sec. 10-65. - Instruction regarding casting ballot.

Any voter requesting instructions shall be given such instructions by an election officer with reference to the sample ballot in the polling place. In case any voter, after entering the voting machine booth, shall ask for further instruction concerning the manner of voting, an election official shall give such instruction to him/her, but no person assisting a voter shall in any manner seek to influence his/her vote. After giving instructions, and before such voter shall have registered his vote, the person assisting him shall retire and such voter shall then register his vote in secret.

(Ord. No. 04-19, 7-26-04)

Sec. 10-66. - Electioneering in or within 50 feet of polling place.

No election officer, challenger, or any other person within the polling place or within 50 feet of the entrance to the building in which the polling place is located shall electioneer during the conduct of the election.

(Ord. No. 04-19, 7-26-04)

Sec. 10-67. - Permission to vote after close of polls.

In closing the election, the election officials shall, nevertheless, permit those electors to vote who have presented themselves and have offered to vote prior to the hour of closing as provided in Section 10-20, provided that at that time, they shall be in a line awaiting their turn to vote."

(Ord. No. 04-19, 7-26-04)

Secs. 10-68—10-74. - Reserved.

ARTICLE XIII. - ELECTION CHALLENGES

Sec. 10-75. - Filing a challenge.

- (a) If a candidate for office in a Newark Municipal Election seeks to challenge the result in said election, he or she shall file such challenge with the city secretary in writing no later than 5:00 p.m. on the second regular municipal business day next following the election.
- (b) Such written notification shall be addressed to the Newark Board of Elections, shall be signed by the candidate making the challenge, and shall be notarized. The notification shall set forth the reason or reasons for the challenge.

(Ord. No. 05-8, 3-28-05)

Sec. 10-76. - Notification of written challenge; meeting of the board.

- (a) Upon notification by the city secretary of receipt of a properly filed written challenge, a quorum of the board shall promptly convene to consider such challenge. Notice of the date and time of such meeting of the Board of Elections shall be publicly posted and shall be provided by the City Secretary to all candidates who stood for office in the contested election as well as their representatives, if any.
- (b) At the meeting of the board, board members, candidates, and their representatives shall jointly review all documents pertaining to the contested election and shall jointly inspect any and all election machines used in the contested election. The City Solicitor shall establish an orderly and effective procedure for the review of election documents and inspection of voting machines.
- (c) Upon completion of the joint inspection of election documents and voting machines, the Board of Elections shall promptly convene and discuss the results of the joint inspection. Any candidate in the contested election, and/or his or her representative, may be heard by the board at such meeting. Testimony before the board shall be under oath. The City Solicitor or Deputy Solicitor shall attend such meeting and provide advice and counsel to the board.
- (d) After reviewing the documents and voting machines, and after hearing from the candidates and their representatives, the board shall thereafter promptly vote to:
  - (1) Reaffirm its prior certification of the result of the election;
  - (2) Uphold the challenge and declare the challenger to be the prevailing candidate; or
  - (3) Declare the election invalid.

(Ord. No. 05-8, 3-28-05)

Sec. 10-77. - Presentation of findings.

- (a) At the next following annual organizational meeting of the Newark City Council, all uncontested candidates for city offices shall be sworn into office. If an election is contested, the board shall present its findings and determinations concerning any issue raised by a challenger or challengers. Any challenger may testify before the council, under oath, with regard to the challenge and the findings of the board. Any challenger and any other candidate in the contested election may present the testimony of other witnesses who shall also testify under oath. Evidence presented to the council shall be relevant to the issues presented and shall be such evidence as individuals would consider in their normal business affairs. The formal judicial rules of evidence shall not apply at such hearing. All proceedings before the council with respect to contested elections shall be open to the public.
- (b) Upon the conclusion of the presentation of the findings of the board and the candidates in the contested election, the City Solicitor or Deputy Solicitor shall advise the council as to the appropriate law and standards by which the election should be judged.

(Ord. No. 05-8, 3-28-05)

Sec. 10-78. - Declaring prevailing candidate; failure to do so; declaring election invalid; scheduling new election.

- (a) The council shall decide upon the challenge in its capacity as judge of the election. The council shall declare a prevailing candidate. If the council is unable to declare a prevailing candidate as a matter of fact or law, the council shall declare the contested election invalid and shall forthwith schedule a new election for the vacant seat within 30 days of the date of action by council.
- (b) If the council declares the contested election invalid, the contested seat shall remain vacant until a new election is held and certified.

(Ord. No. 05-8, 3-28-05)

**CITY OF NEWARK  
DELAWARE  
ELECTION BOARD MEETING MINUTES**

**January 14, 2014**

Those present at 5:05 PM:

Presiding: Samuel Burns, President

Board Members: District 2, Priscilla Onizuk  
District 3, Edward Wirth  
District 4, Gloria Hickey  
District 5, Alice Liechty  
District 6, Gordon Hendry

Absent: District 1, Janet Yoder

Staff Members: City Secretary Renee Bensley

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Mr. Burns called the meeting to order at 5:05 p.m.

**1. APPROVAL OF MINUTES FROM OCTOBER 10, 2013 ELECTION BOARD MEETING**

MOTION MADE BY MR. HENDRY, SECONDED BY MS. LIECHTY: TO ADOPT THE OCTOBER 10, 2013 ELECTION BOARD MEETING MINUTES AS PRESENTED.

MOTION PASSED UNANIMOUSLY.

Yes - Burns, Hendry, Hickey, Liechty, Onizuk, Wirth

No - None

Absent - Yoder

**2. ELECTION OF ELECTION BOARD CHAIRPERSON FOR 2014**

MOTION MADE BY MR. HENDRY, SECONDED BY MS. ONIZUK: TO ELECT SAMUEL BURNS AS ELECTION BOARD CHAIRPERSON FOR 2014.

MOTION PASSED UNANIMOUSLY.

Yes - Burns, Hendry, Hickey, Liechty, Onizuk, Wirth

No - None

Absent - Yoder

### **3. COMMITTEE UPDATE REGARDING DATES FOR THE UPCOMING ELECTION**

Mr. Burns reviewed the dates for the upcoming election. The election would be held on Tuesday, April 8, 2014. The filing deadline for candidates will be Monday, February 3, 2014 and Tuesday, April 15, 2014 would be the swearing in of the newly elected Council members. Ms. Liechty added that the voter registration deadline for the election would be Monday, March 17, 2014.

### **4. NEW BUSINESS**

#### **A. POLL WORKERS/STAFFING NEEDS**

#### **B. VOTING MACHINES NEEDED**

Board members discussed whether to continue providing meals to election workers in lieu of an increased stipend. After discussion, it was agreed to continue providing meals and paying the current stipend rate of \$125 for poll workers and \$145 for machine operators.

Mr. Hendry asked if a polling place would be set up if a candidate was unopposed to allow for write in voters. Mr. Burns stated that the Code provided that if a candidate was unopposed, he/she would be declared the winner and, therefore, a polling place would not be needed for Election Day.

Board members discussed Election Day procedures. It was determined that each district would need the following numbers of poll workers and voting machines:

District 3: 6-7 workers/2-3 voting machines  
District 5: 6-7 workers/2 voting machines  
District 6: 6 workers/2 voting machines

Mr. Wirth stated that due to turnout from the mayoral election, three machines may be needed for District 3.

#### **C. TRAINING CLASS SCHEDULE**

Board members discussed the content of the poll worker training.

Board members requested that Ms. Bensley request Thursday, April 3, 2014 at 6:30 p.m. or 7:00 p.m. as the machine operator training time with the New Castle County Board of Elections. An additional training for all election workers would be scheduled for Monday, April 7, 2014 at 7:00 p.m. in the Council Chambers.

### **5. OTHER BUSINESS**

Ms. Liechty stated that additional voter cards needed to be ordered for the election and that the Board may want to consider changing the format of the card. Board members

agreed to change the date of birth box to year of birth to match changes to the New Castle County Department of Elections voter list information and requested Ms. Bensley order the new cards.

Mr. Burns and Ms. Liechty reminded all Board members that electioneering by Board members in City elections was prohibited.

Mr. Wirth agreed to check candidate nomination petitions for verification when Ms. Liechty was out of town.

**6. Meeting adjourned at 5:45 p.m.**

Renee Bensley  
City Secretary

**CITY OF NEWARK  
DELAWARE  
ELECTION BOARD MEETING MINUTES**

**April 8, 2014**

Those present at 8:15 PM:

Presiding: Samuel Burns, President

Board Members: District 1, Janet Yoder  
District 2, Priscilla Onizuk  
District 3, Edward Wirth  
District 4, Gloria Hickey  
District 5, Alice Liechty  
District 6, Gordon Hendry

Staff Members: City Secretary Renee Bensley

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Mr. Burns called the meeting to order at 8:15 p.m.

**1. ANNOUNCEMENT OF WINNERS OF THE APRIL 8, 2014 ELECTION IMMEDIATELY FOLLOWING THE RETURN OF THE ELECTION RESULTS**

Mr. Burns announced the winners of the April 8, 2014 municipal election as follows:

District 2: Todd Ruckle  
District 3: Robert Gifford  
District 5: Luke Chapman  
District 6: A. Stuart Markham

**2. VOTE TO CERTIFY THE ELECTION RESULTS BY THE ELECTION BOARD**

MOTION MADE BY MS. ONIZUK, SECONDED BY MS. HICKEY: TO CERTIFY TODD RUCKLE AS THE WINNER OF THE DISTRICT 2 ELECTION.

MOTION PASSED UNANIMOUSLY.

Yes – Burns, Hendry, Hickey, Liechty, Onizuk, Wirth, Yoder  
No – None

MOTION MADE BY MS. LIECHTY, SECONDED BY MS. YODER: TO CERTIFY LUKE CHAPMAN AS THE WINNER OF THE DISTRICT 5 ELECTION.

MOTION PASSED UNANIMOUSLY.

Yes – Burns, Hendry, Hickey, Liechty, Onizuk, Wirth, Yoder  
No – None

MOTION MADE BY MR. HENDRY, SECONDED BY MS. HICKEY: TO CERTIFY  
A. STUART MARKHAM AS THE WINNER OF THE DISTRICT 6 ELECTION.

MOTION PASSED UNANIMOUSLY.

Yes – Burns, Hendry, Hickey, Liechty, Onizuk, Wirth, Yoder  
No – None

MOTION MADE BY MR. WIRTH, SECONDED BY MS. LIECHTY: TO CERTIFY  
ROBERT GIFFORD AS THE WINNER OF THE DISTRICT 3 ELECTION.

MOTION PASSED UNANIMOUSLY.

Yes – Burns, Hendry, Hickey, Liechty, Onizuk, Wirth, Yoder  
No – None

**3. Meeting adjourned at 8:25 p.m.**

Renee Bensley  
City Secretary

**CITY OF NEWARK  
DELAWARE  
ELECTION BOARD MEETING AGENDA**

**January 6, 2015 – 4:30 PM  
Mayor’s Conference Room**

1. Call to Order
2. Approval of Minutes from January 14, 2014 Election Board Meeting
3. Approval of Minutes from April 8, 2014 Election Board Meeting
4. Election of Election Board Chairperson For 2015
5. Committee Update Regarding Dates for the 2015 City Election
  - A. Tuesday, April 14, 2015 – Election
  - B. Monday, February 9, 2015 – Candidate Filing Deadline
  - C. Monday, March 23, 2015 – Voter Registration Deadline
  - D. Tuesday, April 21, 2015 – Organizational Meeting/Swearing In
6. New Business
  - A. Update on Potential Charter Amendment to Change Special Election Filing Deadline
  - B. Report on Meeting with NCC Department of Elections
  - C. Discussion and Potential Vote on Election Worker Stipends
  - D. Update on Recodification Process
  - E. Update on Boards and Commissions Review Committee Process
7. Adjournment

The above agenda is intended to be followed, but is subject to changes, deletions, additions, and modifications, as permitted under the Freedom of Information Act of the State of Delaware. The agenda is posted (7) seven days in advance of the scheduled meeting in compliance with 29 *Del. C.* Section 10004 (e)(2). Copies may be obtained at the City Secretary’s Office, 220 South Main Street, or online at [www.cityofnewarkde.us](http://www.cityofnewarkde.us).

**Agenda Posted – December 19, 2014**

Attest:

Sworn by:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Notary Public

(Seal)

**CITY OF NEWARK  
DELAWARE  
ELECTION BOARD MEETING MINUTES**

**January 6, 2015**

Those present at 4:30 P.M.:

Presiding: Samuel Burns, President

Board Members: District 1, Janet Yoder  
District 2, Priscilla Onizuk  
District 3, Edward Wirth  
District 4, Gloria Hickey  
District 5, Alice Liechty  
District 6, Gordon Hendry

Staff Members: City Secretary Renee Bensley

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Mr. Burns called the meeting to order at 4:30 p.m.

**1. APPROVAL OF MINUTES FROM JANUARY 14, 2014 ELECTION BOARD MEETING**

MOTION MADE BY MR. WIRTH, SECONDED BY MS. LIECHTY: TO ADOPT THE JANUARY 14, 2014 ELECTION BOARD MEETING MINUTES AS PRESENTED.

MOTION PASSED UNANIMOUSLY.

Yes - Burns, Hendry, Hickey, Liechty, Onizuk, Wirth, Yoder  
No - None

**2. APPROVAL OF MINUTES FROM APRIL 8, 2014 ELECTION BOARD MEETING**

MOTION MADE BY MS. ONIZUK, SECONDED BY MR. WIRTH: TO ADOPT THE APRIL 8, 2014 ELECTION BOARD MEETING MINUTES AS PRESENTED.

MOTION PASSED UNANIMOUSLY.

Yes - Burns, Hendry, Hickey, Liechty, Onizuk, Wirth, Yoder  
No - None

**3. ELECTION OF ELECTION BOARD PRESIDENT FOR 2015**

MOTION MADE BY MR. HENDRY, SECONDED BY MR. WIRTH: TO ELECT SAMUEL BURNS AS ELECTION BOARD PRESIDENT FOR 2015.

MOTION PASSED UNANIMOUSLY.

Yes - Burns, Hendry, Hickey, Liechty, Onizuk, Wirth, Yoder

No - None

**4. COMMITTEE UPDATE REGARDING DATES FOR THE UPCOMING ELECTION**

Mr. Burns reviewed the dates for the upcoming election. The election would be held on Tuesday, April 14, 2015. The filing deadline for candidates will be Monday, February 9, 2015, Tuesday, April 21, 2015 would be the swearing in of the newly elected Council members, and the voter registration deadline for the election would be Monday, March 23, 2015. Mr. Wirth asked about the publication of the candidate solicitation notice, which Ms. Bensley confirmed would run for five weeks starting January 9, 2015 alternating between the Newark Post and the News Journal as well as being published on the City's website.

**5. NEW BUSINESS**

**A. UPDATE ON POTENTIAL CHARTER AMENDMENT TO CHANGE SPECIAL ELECTION FILING DEADLINE**

Ms. Bensley informed the Board that due to the changes in the City charter in 2013 moving the candidate filing deadline from 29 days before the election to the current 60 to 66 days before the election, the City could no longer comply with the filing deadline in the case of special elections, which are to be held 30 to 60 days from the creation of a vacancy. In the two special elections held during that time, the previous 29 day deadline had been used, therefore, the City will likely be requesting a charter change from the General Assembly to make the filing deadline for special elections 29 days before the election.

**6. B. REPORT ON MEETING WITH NCC DEPARTMENT OF ELECTIONS**

Mr. Burns and Ms. Liechty gave a report on the December 2, 2014 meeting that they and Ms. Bensley attended with representatives of the NCC Department of Elections. Newark was complimented on its well-run elections overall, however, a few minor adjustments were suggested. These included holding the Board meeting to certify the vote totals after the complaints deadline had passed two business days after the election and including the individual candidate totals as part of the audit report in addition to the machine totals. The Board agreed that both of these suggestions should be included for the 2015 election.

**7. C. DISCUSSION AND POTENTIAL VOTE ON ELECTION WORKER STIPENDS**

Mr. Hendry presented a handout with suggestions to amend Section 10-4 of the City Code to require the City to give poll workers the same job titles and per diem rates as the State of Delaware Department of Elections starting in 2016 and to set requirements for City residency for poll workers in City elections. Discussion among the Board members ensued. Several members noted that the Board already had the residency as an informal rule and did not oppose codifying it.

MOTION BY MS. HICKEY, SECONDED BY MR WIRTH: TO RECOMMEND TO COUNCIL THE AMENDMENT OF SECTION 10-4 OF THE CODE OF THE CITY OF NEWARK, DELAWARE, TO ADD A NEW SUBSECTION D, POLL WORKERS, TO READ "FIRST PREFERENCE FOR POLL WORKERS SHALL BE THE RESIDENTS OF THE DISTRICT HOLDING THE ELECTION, HOWEVER, ALL POLL WORKERS SHALL BE RESIDENTS OF THE CITY OF NEWARK AS REFERRED BY THE ELECTION BOARD."

MOTION PASSED UNANIMOUSLY.

Yes - Burns, Hendry, Hickey, Liechty, Onizuk, Wirth, Yoder  
No - None

Regarding the per diem rate, Ms. Bensley noted that the Board has the power within City code to set the per diem rate for poll workers. Mr. Wirth asked when the last time the per diem rate had been raised, which Ms. Bensley stated was in 2007. Mr. Burns did not agree with setting the per diem rate at the same rate as the State as City poll workers had fewer training requirements. After discussion, the Board determined that a \$10 increase to the per diem was appropriate.

MOTION BY MR. HENDRY, SECONDED BY MR WIRTH: TO SET THE 2015 PER DIEM RATE FOR POLL WORKERS AT \$135.00 AND TO SET THE 2015 PER DIEM RATE FOR MACHINE OPERATORS AT \$155.00.

MOTION PASSED UNANIMOUSLY.

Yes - Burns, Hendry, Hickey, Liechty, Onizuk, Wirth, Yoder  
No - None

**8. D. UPDATE ON RECODIFICATION PROCESS**

Ms. Bensley updated the Board on the ongoing recodification process for the City Code and asked for volunteers from the Board to review Chapter 10, Elections, when the legal review was completed. Mr. Hendry, Mr. Wirth and Ms. Yoder volunteered to review the legal transcript once it was completed.

**9. E. UPDATE ON BOARDS AND COMMISSIONS REVIEW COMMITTEE PROCESS**

Ms. Bensley updated the Board regarding the Boards and Commissions Review Committee process and stated she would forward additional information once the Committee had convened and the review process was determined.

**10. Meeting adjourned at 5:30 p.m.**

Renee Bensley  
City Secretary

**CITY OF NEWARK  
DELAWARE  
ELECTION BOARD MEETING AGENDA**

**April 16, 2015 – 5:00 PM  
Council Chambers**

1. Call to Order
2. Approval of Minutes from January 6, 2015 Election Board Meeting
3. Certification of April 14, 2015 Election Results
4. Adjournment

**Agenda Posted – April 9, 2015**

The above agenda is intended to be followed, but is subject to changes, deletions, additions, and modifications, as permitted under the Freedom of Information Act of the State of Delaware. The agenda is posted (7) seven days in advance of the scheduled meeting in compliance with 29 *Del. C.* Section 10004 (e)(2). Copies may be obtained at the City Secretary's Office, 220 South Main Street, or online at [www.cityofnewarkde.us](http://www.cityofnewarkde.us).

Attest:

Sworn by:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Notary Public

(Seal)

**CITY OF NEWARK  
DELAWARE  
ELECTION BOARD MEETING MINUTES**

**April 16, 2015**

Those present at 5:00 P.M.:

Presiding: Samuel Burns, President

Board Members: District 1, Janet Yoder  
District 2, Priscilla Onizuk  
District 3, Edward Wirth  
District 5, Alice Liechty  
District 6, Gordon Hendry

Absent: District 4, Gloria Hickey

Staff Members: City Secretary Renee Bensley

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Mr. Burns called the meeting to order at 5:00 p.m.

**1. APPROVAL OF MINUTES FROM JANUARY 6, 2015 ELECTION BOARD MEETING**

MOTION MADE BY MR. HENDRY, SECONDED BY MR. WIRTH: TO ADOPT THE JANUARY 6, 2015 ELECTION BOARD MEETING MINUTES AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Yes – Burns, Hendry, Liechty, Onizuk, Wirth, Yoder

No – None

Absent – Hickey

**2. CERTIFICATION OF APRIL 14, 2015 ELECTION RESULTS**

The members of the Board reviewed the machine tapes and absentee ballots to ensure that the numbers presented in the draft audit matched the total number of votes.

MOTION MADE BY MR. WIRTH, SECONDED BY MR. HENDRY: TO CERTIFY THE RESULTS OF THE APRIL 14, 2015 ELECTION.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Yes – Burns, Hendry, Liechty, Onizuk, Wirth, Yoder  
No – None  
Absent – Hickey

MOTION MADE BY MS. YODER, SECONDED BY MS. ONIZUK: TO APPROVE  
THE DRAFT AUDIT OF THE APRIL 14, 2015 ELECTION RESULTS.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Yes – Burns, Hendry, Liechty, Onizuk, Wirth, Yoder  
No – None  
Absent – Hickey

**3. Meeting adjourned at 5:15 p.m.**

Renee Bensley  
City Secretary

DRAFT