

Introduced: 5/17/07  
Passed: 6/14/07  
Effective: 7/4/07

**ORDINANCE O-07-3**  
**AN ORDINANCE OF THE TOWN COUNCIL OF**  
**CHESAPEAKE BEACH, MARYLAND, REPEALING CHAPTER 3 OF**  
**THE CODE OF ORDINANCES, TOWN OF CHESAPEAKE BEACH, 1981 REVISION,**  
**AND ADOPTING CHAPTER 16, ELECTIONS, OF THE TOWN CODE OF**  
**CHEAPEAKE BEACH, PROVIDING FOR THE COMPREHENSIVE**  
**REGULATION OF TOWN ELECTIONS**

**WHEREAS**, Chesapeake Beach is a municipal corporation of the State of Maryland, organized and operating under a Charter adopted in 1963, in accordance with Article X1-E of the Constitution of Maryland (2003 & Supp. 2006) and Article 23A of the Annotated Code of Maryland (2005 & Supp. 2006) ("Article 23A"), the Charter being published in Volume II of the Municipal Charters of Maryland; and

**WHEREAS**, in accordance with Md. Ann. Code art. 23A § 2(a) and 2(b)(29) and Subtitle 6 of the Town Charter, Sections C-601 through Section C-616, inclusive, and consistent with said Charter provisions, Md. Ann. Code art. 23A § 46 and 47, and Md. Elections Code Ann. (2003 & Supp. 2006), the Town has the authority to regulate through ordinance the conduct and administration of all aspects of town elections; and

**WHEREAS**, the Town has conducted a comprehensive review of its election laws with the goal of improving the operations, accountability, openness and effectiveness of the election processes and improving the clarity of the laws regulating said elections; and

**WHEREAS**, as a result of the review, the Town Council has determined that it is in the public interest to amend the ordinances of the town of Chesapeake Beach, Maryland with respect to the regulation of Town elections; and

**WHEREAS**, as a result of the review, the Town Council has previously amended the Town Charter, by Resolutions R-07-3 through R-07-16, with respect to the Charter provisions relating to Town elections; and

**WHEREAS**, the Town Council conducted a public hearing on the adoption of Chapter 16, Elections, during which all those who wished to be heard on the subject were heard and their testimony taken and received.

**BE IT ORDAINED AND ENACTED, THAT** Chapter 3 of the Code of Ordinances, Town of Chesapeake Beach, 1981 Revision, which included the Chesapeake Beach Election Code, is hereby repealed, in its entirety; and

hereby repealed, in its entirety; and

**BE IT FURTHER ORDAINED AND ENACTED, THAT** Chapter 16, Elections, of the Town Code of Chesapeake Beach, Maryland is hereby adopted; as set forth below:

## **Chapter 16**

### **Elections**

#### **Article I-Definitions**

##### **§ 16-101 Definitions.**

(a) “*Absentee Ballot*” means a ballot that is not used in a polling place, in the form approved by the Board of Elections.

(b) “*Ballot or Official Ballot*”

(1) “*Ballot or Official Ballot*” includes:

- (i) an absentee ballot;
- (ii) a document ballot;
- (iii) a voting machine ballot; and
- (iv) a provisional ballot.

(2) “*Ballot or Official Ballot*” does not include:

- (i) a sample ballot; or
- (ii) a specimen ballot.

(c) “*Board*” means the Board of Elections of Chesapeake Beach, Maryland.

(d) “*Candidate*” means an individual who has duly filed for elected public office of the Town and for whom a certificate of nomination has been accepted by the Board by the issuance of a certificate of candidacy.

(e) “*Canvass*” means the entire process of vote tallying, vote tabulation, and vote verification or audit, culminating in the production and certification of the official election results.

(f) “*Challenger*” is a qualified voter that challenges another individual’s registration under §16-313,

qualifications for candidacy under §16-403, or a person's right to vote under §16-611. A challenger shall also be the person designated pursuant to §16-704 to make challenges during election recounts.

(g) "*Council*" means the Town Council of Chesapeake Beach, Maryland.

(h) "*Election Judge*" means a member of the Board of Elections or a duly appointed election person, who shall have taken the oath of office.

(i) "*Infamous Crime*" means any felony, treason, perjury, or any crime involving an element of deceit, fraud, or corruption. The crimes listed on the Infamous Crime list maintained by the Maryland Attorney General, as amended, shall be considered an infamous crime for the purposes of this Chapter.

(j) "*Mail*" means actual delivery or mailing by first class mail to the last known address as indicated by the records of the Board.

(k) "*Official Challenger*" is an individual duly designated by a candidate to challenge a voter at the polling place, if he does not believe that the individual is entitled to vote. An Official Challenger may also be designated to observe the tallying of votes.

(l) "*Polling Place*" means the area within Town Hall of Chesapeake Beach, Maryland that is designated by the Board of Elections as the limits of the area in which all election related activities, including voting, shall take place.

(m) "*Provisional Ballot*" means a ballot distributed to an individual by an election judge after the individual has completed an application for a provisional ballot and which is cast by an individual but not counted until the individual's qualifications to vote have been confirmed by the Board of Elections.

(n) "*Registered Voter*" is a person who has registered to vote in accordance with the Charter and this Chapter.

(o) "*Registrar*" means a member of the Board of Elections, the Town Clerk, and those individuals appointed by the Board.

(p) "Registry" means the list of registered voters qualified to vote in Town Elections.

(q) "*Residence*" means legal residence or place of domicile.

(r) "*Sample Ballot*" means a facsimile of a ballot used for informational purposes by a person or entity other than the Election Board.

(s) "*Specimen Ballot*" means a facsimile of a ballot used by the Election Board to provide notice to registered voters of the contents of the ballot.

(t) “*Voting Machine*” includes:

- (1) a mechanical lever machine; and
- (2) a direct recording electronic voting device.

(u) “*Voting Machine Ballot*” means a ballot posted on or in the voting machine and referred to by the voter to indicate the voting choices for each contest.

## **Article II- Board of Elections**

### **§ 16-201 Powers and Duties of Board of Elections.**

(a) *Powers in General*-The Board of Elections shall be responsible for administering and conducting all Town elections, in accordance with the requirements of the Town Charter and this Chapter. The Board of Elections shall be responsible for administering the system and procedures of voter registration, nomination of candidates, canvassing, declaring and certifying the results of elections, preparing and supervising voter education programs, conducting recounts, adjudicating challenges and election contests, and enforcing the provisions of Subtitle 6 of the Town Charter and this Chapter. Except as provided for by this Chapter, the Board shall exercise its powers as a body, not as individual members.

(b) *Specific Powers of the Board*- In addition to the General Powers enumerated in (a) above, the Board of Elections shall have the following specific powers:

(1) to establish and approve all forms to be used by the Board of Elections, election judges, challengers, official challengers, registrars, registrants, candidates, and voters during the election process, so long as such forms are consistent with the requirements of the Town Charter and this Chapter;

(2) to appoint registrars and election judges;

(3) to approve of the designation of official challengers and to supervise their conduct;

(4) to issue orders, take acts, and command adherence to rulings necessary to keep the peace, preserve order, and enforce the requirements of the Town Charter and this Chapter during the registration process, the nomination process, the canvassing, all conduct in and around the polling place(s), and any recount, challenge, or contest proceedings;

(5) to issue administrative summons for the presence of witnesses before them for any purpose connected with the Board’s authority or duties. In addition, the Board of Elections may seek, obtain, and enforce a summons issued by a court of competent jurisdiction necessary to achieve

any purpose connected with the Board's authority or duties;

(6) to order the arrest of any person or persons who commit a breach of Subtitle 6 of the Town Charter or this Chapter in their presence, with the assistance of an officer of the law. The Board may also order the arrest of any person or persons who breach of an order of the Board, a registrar, or an election judge. The enumeration of the Board's power shall not alter or amend the powers of an individual election judge. It is the duty of all officers of the law to obey an order of the Board to arrest a person who has interfered with the election;

(7) to maintain and preserve all records relevant to the election processes in accordance with the provisions of this Chapter, including a registry of registered voters;

(8) make rulings interpreting Subtitle 6 of the Town Charter and this Chapter in actual cases or controversies; and

(9) to open and close the polls on election day, including determine whether to keep polls open longer than scheduled, consistent with the provisions of §16-616.

*(c) Powers of individual members of the Election Board-* Each member of the Board shall have the individual authority to:

(1) act as a registrar;

(2) act as an election judge;

(3) answer general voter questions about election related processes and forms, except that a member may not give advice to a voter as to how he or she should cast their vote; and

(4) to supervise the conduct of registrars, election judges, challengers and official challengers, including other members of the Board acting in the capacity of registrars and election judges.

#### **§ 16-202 Compensation of the Board of Elections.**

The compensation of members of the Board shall be set forth by the budget ordinance for any year in which they are to be compensated. Members of the Board shall be reimbursed for reasonable expenses necessary to conduct their duties, consistent with the Town's reimbursement policies, procedures and ordinances.

#### **§ 16-203 Clerk to the Board.**

The Town Clerk shall act as clerk to the Board, providing administrative support to the Board through his or her efforts or that of the Town Clerk's designees. The Town Clerk shall serve as the official custodian of records on behalf of the Board and shall exercise his or her duties in that capacity under the supervision of the Board.

**§ 16-204 Preservation of Records.**

The Board of Elections shall be responsible for the preservation of all election records. All records of the last election shall be maintained at Town Hall until the next regularly scheduled election. Thereafter, the Board of Elections may store such records as they deem expedient. The Board may dispose of certain papers, documents, or records only in accordance with Maryland law and upon 90 days prior notice to the Town Council of its decision to dispose of records specified in the notice. The Board shall only dispose of the records if the Town Council responds to said notice by declaring, by resolution, which of the specified records may be disposed and the conditions upon which they may be disposed.

**Article III Registration**

**§ 16-301 Registrars.**

(a) *Appointment*- Each member of the Board and the Town Clerk shall be registrars. In addition, the Board may appoint additional persons as registrars as they deem necessary.

(b) *Powers of Registrars*- Each registrar shall have the power to:

(1) Deliver registration applications to persons who request them;

(2) Accept registration applications, either in person or by mail, and forward them to the Board for qualification under §16-311;

(3) Attend and administer registration days;

(4) Explain the registration process to those who inquire; and

(5) Keep the peace, preserve order, and enforce obedience to their commands at and around places of registration. A registrar is authorized to keep access to places of registration open and unobstructed and to prevent any improper practices at or around places of registration.

**§ 16-302 Persons Entitled to Register to Vote.**

(a) Except for persons disqualified under §16-303, and subject to the age exception in (b) below, any person who is qualified to vote in Town elections under Section C-601 of the Charter at the time they make application to register is entitled to register to vote.

(b) Persons who are at least seventeen (17) years of age, will be at least eighteen (18) years old on or before the next Town election, and who, except for their age, are qualified to vote in Town elections shall be entitled register to vote.

**§ 16-303 Persons Not Entitled to Register to Vote.**

(a) *Disqualification to Register to Vote*- A person is not qualified to be registered as a voter if the individual:

(1) has been convicted of theft of other infamous crime, unless the individual:

(i) has been pardoned; or

(ii) 1. in connection with a first conviction, has completed the court-ordered sentence imposed for the conviction, including probation, parole, community service, restitutions and fines; or

2. in connection with a subsequent conviction, has completed the court-ordered sentence imposed for the conviction, including probation, parole, community service, restitutions and fines, and at least 3 years have elapsed since the completion of the court-ordered sentence imposed for the conviction, including probation, parole, community service, restitutions and fines;

(2) is under guardianship for mental disability;

(3) has been convicted of buying or selling votes; or

(4) has been convicted of a second or subsequent crime of violence, as that term is defined in §14-101 of the Criminal Law Article of the Annotated Code of Maryland, as amended.

(b) *Infamous crimes*- A registrar shall consult the list of infamous crimes maintained by the office of Maryland's Attorney General for guidance as to which crimes shall be considered an infamous crime.

(c) *Investigation*- A registrar is not required to conduct a criminal background check or any other investigation into the reasons for possible disqualification from registering, unless the registrar is presented with sufficient information which would lead a reasonable person to conclude that the applicant may be subject to disqualification.

**§ 16-304 Registration by Application.**

(a) An individual may apply to become a registered voter:

(1) at Town Hall;

(2) at a registration site administered by a registrar;

(3) by mail;

(4) with the assistance of a voter registration volunteer authorized by the Board pursuant to this Chapter; or

(5) through any method of registration authorized under Maryland law, to the extent the registration for Town elections is made pursuant to Maryland's universal registration system;

(b) Registration shall be by voter registration application on forms approved by the Board or the forms used by the Maryland universal registration system. The registration forms used by Town registrars or volunteers shall include all of the information required in §16-305 and shall include a description of the qualifications and grounds for disqualification to register to vote in Town elections.

(c) Voter registration applications shall be mailed to any person, upon request made to Town Hall.

**§ 16-305 Required Information for Voter Registration.**

(a) Except as provided in (b), an application for voter registration form shall require:

(1) the signature of the applicant, subject to the penalties of perjury, by which the applicant swears or affirms that the information contained in the registration application is true and that the applicant meets all of the qualifications to become a registered voter;

(2) the full legal name of the applicant;

(3) the address of the residence of the applicant;

(4) the date of birth of the applicant;

(b) An application form approved for use or otherwise qualified to be used under Maryland law may be used by other agencies as part of the Maryland universal registration system.

(c) *Signatures*- For Town registration applications:

(1) If the applicant is unable to sign his name, an "X" or similar mark shall be accepted instead of a signature on the voter registration application.

(2) If the applicant is unable to make a mark then the requirement for the signature or mark is waived.

(3) If there is no signature, the reverse side of application that is retained as the office record shall bear a statement signed by the person who assisted the applicant in filling out the voter registration application, which states that the applicant is unable to sign his name, that he qualifies for registration in Chesapeake Beach, and that the information supplied on the application about him

is true.

(d) *Additional required information-* When qualifying an applicant for registration, the Board may request from the applicant supplementary information to accurately identify the qualifications of the applicant to vote in Town elections, including the applicant's place of birth, the address of other residences, and prior registration status.

(e) *Voter registration application acceptance-* Voter registration applications shall be accepted when all information required by the form has been correctly furnished by the applicant. However, the voter registration application is not complete until all information required by the Board has been correctly furnished by the applicant. If the voter fails to supply the additionally required information within thirty (30) days after a request or within the period in which registration is open, the Board may reject the application and the applicant shall not be registered to vote.

(f) *Party affiliation-* Party affiliation is not required to register vote in Town elections.

#### **§ 16-306 Change of Name, Address, Qualification Status.**

A registered voter shall inform the Board of any change in their name, address or of any fact which would disqualify the voter from voting in a Town election.

#### **§ 16-307 Registration closing.**

(a) *When registration is closed-* Registration to vote is closed beginning at 9 p.m. on the 21<sup>st</sup> day preceding an election until the 11<sup>th</sup> day after that election.

(b) *Receipt of applications after registration is closed-Generally-* A voter registration application received when registration is closed shall be accepted and retained by the Board, but the registration of the applicant does not become effective until registration reopens.

(c) *Exceptions-* A voter registration application that is received by the Board after the close of registration shall be considered timely received for the next election provided:

(1) there is sufficient evidence, as determined by the Board, that the application was mailed on or before registration was closed for that election; or

(2) the application was submitted by a voter to the Motor Vehicle Administration, the State's local election board, a voter registration volunteer, a registrar, or a member of the Board, prior to the registration deadline.

#### **§ 16-308 Voter Registration Volunteers.**

(a) *Voter registration volunteers-* Registered voters of the Town may become voter registration volunteers and may participate in voter registration in one of the following ways:

- (1) Encouraging people to register to vote;
- (2) Distributing voter registration applications to citizens wishing to register to vote;
- (3) Assisting citizens in filling out the voter registration applications; and
- (4) Bringing completed voter registration applications to the Board of Elections or a registrar.

(b) *Qualifications to become a voter registration volunteer-* To qualify as a voter registration volunteer, a person shall:

- (1) Be instructed in accordance with this section;
- (2) Sign an affidavit in the form prescribed by the Board stating that his conduct as a voter registration volunteer shall be in accordance the instructions received and the requirements of this Chapter.

(c) *Instructions to volunteers-* Instructions to volunteers shall include directions:

- (1) On completing voter registration applications to ensure that applicants, insofar as possible, have filled the application completely and accurately;
- (2) To specifically advise individuals seeking registration that he may personally return the voter registration application to the Board or a registrar, either by mail or in person, or that they may entrust the voter registration application to the volunteer for return to the Board or a registrar; and
- (3) That when the applicant entrusts the voter registration application to the volunteer for return to the Board or a registrar, the voter registration application should be returned at the earlier of fifteen days after receipt or prior to the registration deadline for the next Town election.

#### **§ 16-309 Receipt of Voter Registration Application Forms.**

(a) *Receipt of voter registration application in Town Hall-* Completed voter registration application forms shall be date stamped upon receipt by the Board, a registrar, or the designee of either. Completed voter registration applications shall be deemed to have been received when actually received in Town Hall for the Board.

(b) *Receipt by mail-* A voter registration application which is received in the mail by the Board or a registrar shall be considered timely for registration for the next election provided:

- (1) It was mailed before the deadline for registration; and
- (2) The United States Postal Service, or the postal service of any other country, has provided

verification of that fact by affixing a mark so indicating on the covering envelope.

**§ 16-310 Voter Registration Application Verification Inquiries.**

(a) *Instances where verification is required-* An appropriate verification inquiry shall be conducted in the following instances:

- (1) When the required information on the voter registration application is incomplete;
- (2) When the information given on the voter registration application form appears unclear or inconsistent;
- (3) When the voter registration application form appears to be an exact duplicate of a registration already on file;
- (4) When the voter registration application form appears to be a duplicate of an already registered voter, but indicates a change of name and/or address;
- (5) When it is uncertain for any reason what action should be taken on the application.

(b) *Citizenship-* When a person presents themselves for registration their citizenship status must be ascertained.

(c) *Verification timely and appropriate-* Verification inquiries shall be conducted so as to permit timely and appropriate action on applications, avoid needless rejections and in accordance with requirements of the Town Charter and this Chapter.

**§ 16-311 Registration Qualification.**

(a) *Qualification-* The Board shall qualify or disqualify all applicants for registration within ten (10) days its receipt of an application for registration. If an applicant is qualified it shall be indicated on the registration form and the applicant shall be mailed a voter notification card on a form approved by the Board.

(b) *Time period for disqualification-* Any applicant who is not disqualified within ten (10) days after receipt of the application for registration shall be presumed qualified and may not thereafter be disqualified except by challenge undertaken pursuant to §16-313 of this Chapter.

(c) *Hearing-* If an applicant is disqualified he shall be mailed or given notice in writing stating the reasons for disqualification and informing the applicant that he may request a hearing in writing before the Board within ten (10) days of the notice of disqualification. Hearings shall be conducted in the same manner of challenge hearings.

(d) *Reapplication -* Any applicant who has been disqualified for any reason shall be permitted to

reapply, but in no case shall any person have more than one application for registration pending at one time.

### **§ 16-312 Satisfaction of the Board as to Registration Qualifications.**

No person can be entered as a qualified voter upon the registry without the consent of a majority of the Board.

### **§ 16-313 Challenges to Voter Registration.**

(a) *Registrations made through the Maryland Universal Registration System-* Any individual who feels aggrieved by any action of the local State election board regarding voter registration for a Town election through the universal reservation system, shall challenge that action through the administrative complaint process provided by Maryland law. The Election Board, or any individual member thereof, shall have the authority to challenge such actions if they determine that an improper registration would impact a voter's registration to vote in a Town election.

(b) *Registrations made through Town processes-* Any registration of a voter through a registrar, a voter registration volunteer, a Board member or the Board, any disqualification to register by the Board, or the removal of a person from the registry by the Board, shall be subject to challenge as set forth herein.

(1) *Filing a challenge to disqualify a voter-* Any qualified voter of the Town may file a challenge in writing and under oath, objecting to the registration of any person believed not to be eligible to vote and stating, to the best of the challenger's personal knowledge, the basis for the challenge.

(2) *Filing a challenge to include a voter-* Any qualified voter may file a challenge asking for the addition of any person believed to have been erroneously disqualified from registering or improperly removed from the registry.

(3) *Timing of Challenges-* Challenges may be filed at any time, but shall not be adjudicated if filed with the Board less than 15 days prior to the next Town election. If filed less than 15 days prior to a Town election, a challenge will be adjudicated after the election. The adjudication of a challenge to registration shall not alter a vote cast in any election or the results of an election contest.

(4) *Acceptance or rejection of challenge-* Within ten (10) days of the receipt of the challenge, the Board shall conduct a hearing on the challenge according to §16-314.

(5) *Challenges by the Board-* The Board may act on its own initiative to make a challenge, stating in writing its reasons therefore, and to set the matter in for a hearing.

### **§ 16-314 Challenge Hearings.**

Challenges set for hearing shall be public and held in Town Hall before the Board. The person who's registration is the subject of the challenge, and the person filing the challenge, shall both be given at least five (5) days prior written notice by mail of the date, time and place of the hearing. The person who's registration is the subject of the challenge shall also be mailed a copy of the challenge. Hearings shall be set and held so as to reasonably facilitate the opportunity to vote and the Board may shorten or waive the time and notice requirements of this section to facilitate a person's opportunity to vote. The burden of proof shall lie with the voter making the challenge, or in the absence of a voter challenge, with the Board itself. The person challenged shall be permitted to be represented by legal counsel or a qualified voter. Decisions of the Board shall be in writing and copies thereof shall be made available to the parties.

### **§ 16-315 Registration Records.**

The registration records, known as the registry, shall be maintained by the Board in two (2) separate and identical files or binders under lock and key. One registration file shall be open to public inspection to the extent permitted under the Maryland Public Information Act. One file shall be open only to the Board, except by order of the Town Council or in response to a court order.

### **§ 16-316 Retention of Registration Records by the Board of Elections.**

(a) *Approved applications*- All approved and accepted voter registration forms shall be retained and the requisite information incorporated into the registry.

(b) *Applications in the process of verification*- All applications in the process of verification shall be retained in a separate file, pending final disposition.

(c) *Rejected applications*- All rejected applications, together with documentation of notification of rejection, shall be retained in a rejection file.

(d) *Duplicate applications*- All applications identified as duplicates will be retained in a duplicate file.

(e) *Records*- All registration records shall be maintained by the Board for a period of 20 years. Thereafter, records shall continue to be maintained until approval to destroy or otherwise dispose of the records is obtained by the Town Council of Chesapeake Beach and the office of the Maryland State Archives as set forth in §16-204.

### **§ 16-317 Registration Validity.**

All persons who are presently registered voters of the Town shall remain registered as long as they shall meet the qualifications for voters prescribed in section C-601 of the Town Charter, unless such registration shall be withdrawn as provided in §16-318.

**§ 16-318 Withdrawal or Expiration of Registration.**

The Election Board shall withdraw the registration of any person who has died or whom the Board has determined is no longer qualified to vote in Town elections under Section C-601 of the Charter.

**Article IV- Candidates for Office**

**§ 16-401 Elective Office.**

No person shall be nominated to more than one elective town public office or hold more than one elective Town public office at any one time.

**§ 16-402 Certificate of Nomination.**

(a) *Generally*-Any person who is qualified to hold office pursuant to the Charter may have his or her name placed on the ballot as a candidate for Mayor or Councilman by filing a certificate of nomination with the Town Clerk at least forty-five (45) days prior to the election.

(b) *Required elements of a certificate of nomination*- A certificate of nomination shall:

(1) Be in writing;

(2) Be signed by the candidate;

(3) Be dated;

(4) Provide the address of the legal residence of the candidate;

(5) Identify the office (Mayor or Town Council) which the candidate wishes to seek through the election process.

(c) *Nomination by Third Party*- A certificate of nomination does not require a third party to nominate a candidate and a candidate may nominate him or herself by filing a certificate of nomination.

(d) *Certificate of Candidacy*- Pursuant to the Charter, the Board of Elections shall certify that each candidate who has filed a certificate of nomination is qualified to hold elective office under the Charter, at least 40 days prior to the election. The Board shall issue to each candidate who qualifies, a certificate of candidacy, which shall be dated and state that the Board has determined that they are qualified under the Charter to hold the elective office which they seek. A copy of all certificates of candidacy shall be available for public inspection at Town Hall.

### **§ 16-403 Challenges to Candidacy.**

(a) Any person entitled to vote in Town Elections, including any other candidate, may challenge the determination of the Board in issuing a certificate of candidacy, by filing a written challenge to candidacy, which must be signed by the challenger and must state, with particularity, all reasons why the challenged candidate is unqualified to hold elective office under the Charter. Such a challenge must be filed with the Town Clerk at least 30 days prior to the election for which the candidate is running. The Town Clerk shall forward any challenge filed to the Board for a determination.

(b) The Board shall conduct a public hearing on any challenge which shall be held within 10 days after the filing of the written challenge. The person who's candidacy is the subject of the challenge, and the person filing the challenge, shall both be given at least three (3) days prior written notice by mail of the date, time and place of the hearing. The person who's candidacy is the subject of the challenge shall also be mailed a copy of the challenge to candidacy. The challenger shall be strictly limited to challenging the candidacy on the basis of the issues raised in the written challenge to candidacy. The burden of proof shall lie with the person making the challenge. The challenger and the person challenged shall be permitted to be represented by legal counsel or a qualified voter. Decisions of the Board shall be in writing and copies thereof shall be made available to the parties.

### **§ 16-404 Slates.**

Candidates who have been issued a certificate of candidacy may form a slate to assist with their campaigning, so long as all campaign literature and materials contain the required attribution for all candidates on the slate.

## **Article V- Ballots and Voting Devices**

### **§ 16-501 Ballots.**

For each election, the Board of Elections shall establish the official ballot after issuing a certificate of candidacy to all qualified candidates who filed a certificate of nomination. The ballot may be in paper form, be represented on a mechanical voting machine or device, or be displayed by an electronic voting machine or device. The Board shall ensure that there are sufficient printed paper ballots available in case mechanical or electronic voting machines become inoperable or unavailable on election day.

### **§ 16-502 Ballot Formulation.**

(a) *Form of Official Ballot*- On each ballot, after the name of each candidate, shall be printed or displayed a blank square or area for designating the choice of the voter. Only the legal name of the candidate shall be used on the official ballot. The candidates for Mayor shall be listed first, in alphabetical order by their surname. The candidates for Town Council shall be listed after those for Mayor, and shall be listed in alphabetical order by their surname. The form of the ballot shall give each voter the opportunity to clearly indicate his choice for Mayor or Town Councilperson of

Chesapeake Beach. For paper ballots, the voter shall be requested to identify their choice by marking with a cross mark (x) in the square opposite the candidate's name for whom he desires to vote, not exceeding the number of candidates to be elected for each election contest. For mechanical or electronic voting machines, the form of the ballot shall give each voter the opportunity to clearly indicate his choice for Mayor or Town Councilperson by activating the correct button, lever, or touch-screen space opposite the candidate's name for home he desires to vote, not exceeding the number of candidates to be elected for each election contest.

(b) *Specimen Ballots*-The Board shall use the form of the official ballot to create a specimen ballot, on which it shall be clearly printed the words "Specimen Ballot". The specimen ballot can be used by the Board and election judges to demonstrate the form of the ballot prior to and on the day of the election.

### **§ 16-503 Voting Machines.**

The Board is authorized to use voting machines instead of paper ballots to record the vote of some or all voters. Voting machines can be either mechanical or electronic in operation and can store the results of a vote cast by a voter either mechanically or electronically, pending the tabulation of all of the votes on that machine. Generally, all voters shall use the same method of voting at a particular polling place, however the use of voting machines for some voters does not preclude the use of paper ballots for other voters in the same election or at the same polling place if the election judge or judges find that the voting machines are defective, unreliable, unavailable, or an election judge suspects a machine or device has been tampered with and deems it important to preserve the machine as evidence of such tampering.

### **§ 16-504 Voting Booths or Stations.**

The Town Council shall provide a suitable room with booths or segregated stations, to which each voter may retire alone for the purpose of marking his ballot or use a voting machine, so that their vote may be made in private.

### **§ 16-505 Voters Use of Sample Ballots.**

Any voter may take with him into the polling place any written or printed memorandum or paper to assist him in marking or preparing his ballot, including a sample ballot.

### **§ 16-506 Provisional Ballots.**

(a) *In general.* If an individual is eligible to vote under subsection (b) of this section, the individual shall be issued and may cast a provisional ballot at a polling place on election day.

(b) *Eligibility.* An individual is eligible to cast a provisional ballot if the individual signs an oath affirming his registration as a voter and:

- (1) the individual's name does not appear on the register;
- (2) the individual is not eligible to vote a regular ballot;
- (3) the individual does not have the necessary identification;
- (4) someone challenges the individual's right to vote; or
- (5) the individual is voting during Board or court-ordered extended election hours.

**§ 16-507 Documentation of Provisional Ballots by the Board.**

The Board shall maintain a full record of provisional ballot voting in the Town, including, for each voter who votes using a provisional ballot, the action taken with regard to the registration and any other information specified by the Board. All information specific to a voter, including his vote, shall be confidential.

**§ 16-508 Completion of a Provisional Ballot Application.**

Before an individual casts a provisional ballot, the individual shall complete and sign a provisional ballot application prescribed by the Board. The application shall be under oath. The election judge issuing the provisional ballot shall give the individual written information advising the individual that, and describing how, the individual will be able to ascertain whether the vote was counted and, if it was not counted, the reason it was not.

**§ 16-509 Content of Provisional Ballots.**

The contents of a provisional ballot issued to a voter shall be identical to the official ballot.

**§ 16-510 Provisional Ballot Instructions and Envelopes.**

(a) *Instructions* - A provisional ballot shall be accompanied by instructions, prescribed by the Board for marking and returning the ballot and a ballot envelope or storage system.

(b) *Envelopes; electronic* - When voted, a Provisional Ballot shall be:

- (1) enclosed in an envelope designated "Provisional Ballot/return envelope"; or
- (2) stored in a mechanical or electronic format, separated from all other ballot results, as specified by the Board.

**§ 16-511 Casting a Provisional Ballot.**

An individual given a provisional ballot shall mark their ballot as they would any other

official ballot, and shall then place the provisional ballot in a ballot envelope given to them by the election judge. The envelope shall be sealed and then attached to the provisional ballot application.

**§ 16-512 Canvassing of Provisional Ballots.**

(a) *In general*- Following an election, the Board shall meet at its designated counting center to canvass the provisional ballots cast in that election.

(b) *Time for opening provisional ballots*- The Board may not open the envelope of a provisional ballot until the Board has approved the provisional ballot application.

(c) *Approval or rejection of provisional ballot applications*- Based upon the information provided by the provisional ballot application, the Board, by a majority vote with respect to each application, shall determine if the individual applicant was qualified to vote a provisional ballot. For the purposes of this section, an individual is qualified to vote the provisional ballot cast if the Board determines that:

(1) the individual is registered (or was entitled to have been registered) and qualified to vote in the Town election;

(2) if the provisional ballot was cast because the voter failed to provide required identification and the individual who cast the provisional ballot has met the identification requirements established by the Board; and

(3) if the provisional ballot was cast during a period covered by a court order or other order extending the time for closing the polls, the order has not been invalidated by a subsequent court order.

(d) *Rejection of provisional ballots*- If the Board has approved a provisional ballot application, the Board shall then open the envelope and review the sufficiency of the provisional ballot.

(1) The Board may not reject a provisional ballot except by a majority vote.

(2) The Board shall reject a provisional ballot if:

(i) the individual cast more than one ballot for the same election;

(ii) the Board determines that a provisional ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot; or

(iii) the intent of the voter is not clearly demonstrated by the provisional ballot.

(3) If the intent of the voter with respect to a particular contest is not clearly demonstrated,

the Board shall reject only the vote for that contest.

(4) If the Board accepts the sufficiency of the provisional ballot, the votes on that ballot shall be counted.

(e) *Confirmation by Voter*-(1) The Board shall ensure the establishment of a system that any individual who casts a provisional ballot may determine, without any fee or expense to the individual, whether their ballot was counted as a vote and, if not counted, the reason it was not counted.

(2) The system established under paragraph (1) of this subsection shall ensure the confidentiality of the individual who seeks confirmation of the counting of their ballot and the secrecy of each ballot.

### **§ 16-513 Absentee Voting Generally.**

Any registered and qualified voter desiring to vote at any election as an absentee voter shall make an application in writing to the Board of Elections for an absentee ballot. An individual may vote by absentee ballot except to the extent preempted under an applicable federal law.

### **§ 16-514 Applications for Absentee Ballot.**

(a) *Application*- An application for an absentee ballot, signed by the voter, may be made:

(1) on a form produced by the Board of Elections and supplied to the voter;

(2) on a form provided under federal law; or

(3) in a written request that includes:

(i) the voter's name and residence address; and

(ii) the address to which the ballot is to be mailed, if different from the residence address.

(b) *Deadline for receipt of application*- Except for a late application under subsection (c) of this section, an application for an absentee ballot must be received by the Board of Elections no later than the close of business of the Tuesday preceding the election.

(c) *Late application*- (1) Beginning on the Wednesday preceding the election, through the closing of the polls on election day, a registered voter or the voter's duly authorized agent may apply in person for an absentee ballot at the Town Hall.

(2) A special application for an absentee ballot issued under this subsection shall be supplied

by the Board of Elections, or its designee, to the voter or the voter's duly authorized agent.

(3) The application shall be made under penalty of perjury but without a formal oath.

(4) After review of the application, the Board of Elections shall issue an absentee ballot to the voter or the voter's duly authorized agent if the voter is qualified to vote in the next election.

#### **§ 16-515 Absentee Ballot Forms.**

The form of absentee ballots, ballot envelopes, return envelopes, and instructions to voters, shall be prepared and approved by the Board of Elections. The absentee ballot shall include instructions prescribed by the Board.

#### **§ 16-516 Review of application for Absentee Ballot; Issuance or Rejection.**

(a) *Review of Application*- After receipt of an application, the Board of Elections shall review the application and determine whether the applicant qualifies to vote by absentee ballot. Applications received within 30 days of the date of the election, or on the date of the election, shall be reviewed promptly.

(b) *Transmittal of ballot*- If the applicant qualifies to vote by absentee ballot, the local board shall send the ballot:

(1) as soon as practicable after receipt of the request; or

(2) if the ballots have not been received from the printer, as soon as practicable after the Board receives delivery of the ballots.

(c) *Rejection of application*- (1) If the Board of Elections determine that the applicant is not entitled to vote by absentee ballot, the Board shall notify the applicant as soon as practicable after receipt of the application of the reasons for the rejection.

(2) (i) The Board of Elections may delegate the determination under paragraph (1) of this subsection to its designee.

(ii) If the determination has been delegated, the applicant may appeal the rejection to the members of the Board of Elections, who shall decide the appeal as expeditiously as practicable.

(d) *Number of ballots issued to a voter*- Not more than one absentee ballot may be issued to a voter unless the Board of Elections or its designee has reasonable grounds to believe that an absentee ballot previously issued to the voter has been lost, destroyed, or spoiled.

**§ 16-517 Use of an Agent in Absentee Ballot Process.**

(a) *Use authorized*- A qualified applicant may designate a duly authorized agent to pick up and deliver an absentee ballot under this Article.

(b) *Qualifications of agent*- An agent of the voter under this section:

(1) must be at least 18 years old;

(2) may not be a candidate on that ballot;

(3) shall be designated in a writing signed by the voter under the penalty of perjury; and

(4) shall execute an affidavit under the penalty of perjury that the ballot was:

(i) delivered to the voter who submitted the application; and

(ii) marked and placed in an envelope by the voter, or with assistance as allowed by §16-518 of this Article, in the agent's presence; and

(iii) returned to the Board of Elections by the agent.

**§ 16-518 Assistance in Marking Absentee Ballots.**

(a) *In general*- A voter who requires assistance in casting an absentee ballot by reason of disability, inability to write, or inability to read the ballot may be assisted by any individual other than:

(1) a candidate who is on that ballot;

(2) the voter's employer or an agent of the employer; or

(3) an officer or agent of the voter's union.

(b) *Certification of assistance*- An individual rendering assistance under this section shall execute a certification that the person is not disqualified under subsection (a) above and that he or she has followed the instructions relevant to giving assistance in the marking of absentee ballots.

**§ 16-519 Counting Absentee Ballots.**

The Board shall enter the letter "V" for voted along with the letters "A.B." for absentee ballot, next to the voter's name on the register for submitted absentee ballots. Once the polls are closed, the absentee ballot may be removed from the ballot envelope that is signed by the registrant, and shall be placed in a box designated specifically for paper ballots. Ballots shall be removed from the box at random for counting and recording of the vote. No person shall be permitted to cast more

than one (1) ballot of any nature and the Board shall reject any envelope which contains more than one (1) ballot or any ballot envelope of any qualified voter who has already voted.

**§ 16-520 Absentee Ballots Must be Received Prior to Closing of the Polls.**

All absentee ballots must be received by the Board of Elections no later than the closing of the polls on election day. If it is not received prior to the closing of the polls, the ballot shall not be counted.

**Article VI- Conduct of Elections**

**§ 16-601 Illegal Electioneering.**

(a) No person is permitted to electioneer, campaign, distribute election related materials, or post any campaign materials (including signs):

(1) within in a polling room;

(2) with respect to Town Hall when used as a polling place, within any area designated as a prohibited area on the diagram provided by §16-901.

(b) All signs relating to an election or to a candidate shall meet the following requirements:

(1) They shall comply with the applicable sign ordinance or local zoning code of the jurisdiction in which they are located, including any necessary sign permit;

(2) Signs posted by candidates or their agents must include a statement of attribution, identifying the candidate;

(3) Signs must be removed within 15 days following the election; and

(4) Signs shall not deface public property.

(c) It shall be the duty of the candidate to ensure that all signs posted by the candidate or his or her agents comply with the requirements of subsection (b).

**§ 16-602 Election Judges.**

(a) *Board members and judges*- Each member of the Board of Elections shall serve as an election judge. In addition, the Board may appoint any persons qualified under (b) to serve as election judges should they deem it necessary.

(b) *Qualifications for appointment*- An individual can be appointed and serve as an election judge if they:

- (1) are currently registered to vote in Town elections;
- (2) are not currently a candidate for office in any election contest;
- (3) are not currently serving in public office; and
- (4) take the oath of office prescribed in (c) below.

(c) *Oath*- Each election judge shall take an oath of office, administered by a member of the Board, in the following form: "I, \_\_\_\_\_, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of Maryland and support the Constitution and Laws thereof; and that I will be faithful and bear true allegiance to the town of Chesapeake Beach, Maryland, and support the Charter and laws thereof; that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of election judge according to the Charter and laws of Chesapeake Beach; and that I will not directly or indirectly, receive profits or any part of the profits of any other office during the term of my acting as an election judge."

(d) *Duties*- Except for the division of duties required by §16-603, each election judge shall be responsible for supervising the activities in and around the polling place, opening the polls, closing the polls, voter identification and determining voting status, instructing voters, supervising the assistance of voters, maintaining and supervising the use of the voter registry, official ballots, specimen ballots, ballot boxes, voting machines, voting booths, supervising challengers and official challengers, making challenges, determining challenges (by majority vote), maintain decorum, and enforcing the provisions of the Charter and this Chapter with respect to matters relevant to the election judge's duties as stated herein.

(e) *Arrival of judges prior to polls opening*- At least two Board members acting as election judges shall be present at Town Hall and shall meet there on election day, one half hour before the opening of the polls.

(f) *Substitutes*- If any election judge is not present fifteen (15) minutes after the time fixed for the opening of the polls, the election judge or judges present shall fill the place of the absent election judge by appointing in his place a qualified person. One election judge shall administer to the substitute judge the required oath. After the polls are opened, no election judge is permitted to leave the polling place until the ballots have been cast and counted and the returns completed. If absolute necessity compels the absence of an election judge, before such judge leaves he must appoint some qualified person to act in his place until he returns, having first administered the required oath. A record of the appointment and swearing in of each substitute, the reason for the substitution, and of the time such substitute began and ceased to serve, shall be preserved. When an election judge, who was required to leave the polling place, returns the substitute election judge shall cease to act but should not leave the polling place until the ballots have been cast and counted and the returns completed.

(g) *Removal*- The Election Board shall promptly investigate each complaint it receives regarding the fitness, qualifications, or performance of an individual appointed to be an election judge under subsection (b), and shall remove any election judge so appointed who is unfit or incompetent for the office.

(h) *Power of arrest*- Each election judge has the authority to keep the peace, and to cause any person to be arrested who has committed any breach of the election laws or who has interfered with the conduct of the election or the counting of the ballots. It is not necessary that a majority of the election judges concur in the arrest, each judge has his or her own authority to order an arrest. It is the duty of all officers of the law to obey the order of any election judge to arrest a person who has interfered with the election or to prevent a person from interfering with the legal election processes.

#### **§ 16-603 Division of Duties Among Judges.**

(a) *Division of duties*- One election judge shall handle the registry and one judge shall act as the ballot box judge.

(b) *Opening of the polls*- Upon the opening of the polls, the election judges shall open and allow inspection of the ballot box and or voting machines. If a ballot box is used, it shall be locked after inspection and prior to the commencement of voting. After inspection of the ballot box and/or voting machines, the sealed package of ballots is then to be opened.

(c) *Casting the Ballot*- The election judge must initial each Ballot on the back thereof upon presenting the same to the otherwise qualified voter. The letter "V" for "voted" is then placed on the registry.

#### **§ 16-604 Proof of Voter Status.**

Even though a person may be on the voter registry of the Town, such person may not vote unless he is a qualified voter. The Board may require any person who comes to the polls to vote at any election to furnish identification and proof that such person is a citizen of the United States, is a resident of the Town, is at least eighteen (18) years of age, and that he is properly registered under the provisions of this Chapter.

#### **§ 16-605 Voter Authority Card.**

(a) *Signature requirement*- When a voter applies to vote, he shall identify himself by signing a voter authority card on a form designated by the Board of Elections. Voter authority cards are to be issued in numerical order.

(b) *Change of address*- If the voter has changed his address after registration, or after the last time he voted, that fact shall be disclosed to an election judges at the time the voting authority card is applied for. The election judges shall indicate the change of address and report that fact to the Board.

### § 16-606 Instructions to Voters.

A voter may request instructions regarding the manner in which to mark a ballot. However, no election judge shall suggest in any way how such voter should vote on any particular question or for any particular candidate. If the voter has been given their official ballot and they require instruction, the instructions should be given in the election booth or voting space, and after giving such instruction, the election judge shall leave the voting booth voting space.

### § 16-607 Assistance to Voters.

(a) *Disability*- No voter shall be permitted to receive assistance in voting at any election unless he shall declare under oath that by reason of blindness, impaired vision, or other physical disability he is unable to read or mark the Ballot without assistance, or to operate the voting machine, in order to vote.

(b) *Affidavit*- A voter who requires assistance shall execute an affidavit stating the specific reason that assistance is required. No voter shall be assisted in this manner unless a majority of election judges shall be satisfied of the truth of the facts stated in the affidavit.

(c) *Judges entry on the record*-The Judges shall enter in writing on the record:

- (1) the voter's name;
- (2) the specific physical disability which requires him to receive assistance; and
- (3) the name of any person or persons assisting the voter in marking his ballot.

(d) *Voter selected person for assistance*- If a voter makes such an affidavit of physical disability an election judge or any person the voter may select shall retire with him to vote. The person selected by the voter, or as the case may be, one of the judges, shall mark the Ballot or operate the voting machine as such voter shall direct, the voter himself naming one by one the candidates or questions for whom he desires to vote. The only assistance which is lawful for election judges to give such a voter is to mark the Ballot or operate the voting machine as the voter shall direct. The person selected to assist the voter cannot be:

- (1) a candidate who is on that ballot;
- (2) the individual's employer or an agent of the employer; or
- (3) an officer or agent of the individual's union.

### **§ 16-608 Official Challenger Designation and Protection.**

Each candidate shall have the right to designate a registered voter as an official challenger at each polling place. It is the duty of the election judges and the police to protect the official challengers in the discharge of their duty.

### **§ 16-609 Removal of Official Challengers.**

An official challenger may be removed at any time by the candidate that appointed them.

### **§ 16-610 Official Challengers Rights.**

(a) *Official Challenger's rights*- From the time the polls open until the time that they close, an official challenger's position is in the poll room, as close to the election judges as practicable, so that he or she can see every person who seeks to vote. From the time the polls close until the time the results of the election are received, the official challengers have the right to take such a position as will enable them to see everything that is done and how it is done, except that they may not enter a voting booth with a voter.

(b) *What Official Challengers must not do*- No official challenger may inquire or ascertain for whom any voter desires to vote or has voted, or to confer in the polling room with any voter, or to assist him in the preparation of his ballot or in the operation of voting. It is the duty of the election judges whenever an official challenger does any of the above stated to exclude such official challenger from the polling room.

### **§ 16-611 When Citizens May Challenge.**

Persons other than official challengers, who desire to challenge the vote of any person inside the polling place, may be permitted by the election judges to enter the room to issue a challenge. A majority of the election judges may limit the number of persons allowed in the room for such purpose, and any person who enters the room for such purpose must immediately leave the room once the challenge is decided.

### **§ 16-612 Duty of Judges to Challenge.**

If an election judge knows or believes a person offering to vote is not the person registered, he must issue a challenge, if the person has not already been challenged.

### **§ 16-613 Resolution of Challenges.**

A person who issues a challenge shall be required to state his reasons for the challenge. The challenger and the challenged voter shall be sworn and questioned. If a majority of the judges are of the opinion that he is the person who was registered and is qualified to vote, his vote shall be received. The election judges shall not base their decision on whether or not he should have been

registered to vote. The fact that a voter was registered is, so far as the election judges are concerned, conclusive of the right to vote; their duty is simply to satisfy themselves that the person offering to vote is the registered person. If the challenge to a voter is sustained, the person seeking to vote shall be given the opportunity to apply for a provisional ballot.

#### **§ 16-614 A Challenge Resulting from Registry Errors.**

The fact that a voters name is wrongfully spelled on the registry, or that he has given a wrong initial or more initials than he has, or that one or more of his initials is omitted, or that he states his initials or given name in a different way from the way in which it is registered, or that there is an error in the number of his residence on the registry, shall not affect his right to vote, as long as a majority of the election judges are satisfied that he is the person who did actually register, and that he intended to register his true name and residence.

#### **§ 16-615 Majority of Judges Necessary to Receive a Challenged Vote.**

If a voter is challenged, his vote cannot be received unless a majority of the election judges are satisfied that he has a right to vote.

#### **§ 16-616 Opening and Closing of Polls.**

(a) *Poll hours*- The polls shall be scheduled to be open, and subject to extensions as set forth in this section, shall be open from 7 a.m. to 8 p.m. on election day.

(b) *Power of Board of Elections to extend hours*- The Board of Elections shall have the power to increase the hours in which the polls are scheduled to be open upon a finding of exigent circumstances as defined in subsection (c). The determination by the Board to alter the time when the polls are opened or closed shall be made by a majority vote of its members. Upon any determination to alter the time in which the polls shall remain open, the Board shall take all reasonable and prudent steps to announce the decision and let the public know of the extended hours.

(c) *Exigent Circumstances*- Exigent circumstances supporting the Board's decision to alter the hours in which polling places remain open shall exist when:

(1) The Board determines that the weather or other natural event, local or national emergency, insurrection, war, or other calamity creates conditions which would hinder a significant number of voters from reaching or voting at any or all of the polling places;

(2) The Board determines that the Governor of Maryland or the United States has declared a state of emergency or martial law for the area in which any polling place is located;

(3) The Board determines that the conduct of the elections, election processes, or the conduct of persons relating to the election are such that some or all voters were prevented from reaching the polls or validly exercising their right to vote; or

(4) The Board receives official notice that a court of competent jurisdiction has ordered that the polls be opened early or closed later than the regularly scheduled hours.

**§ 16-617 Procedures for Closing the Polls.**

(a) *Voters in line when polls close*- All qualified voters who are waiting in line to vote when the polls are closed shall be permitted to vote.

(b) *Unused Ballots*- Before opening the ballot box or activating the tallying function of any voting machine, any unused ballots are to be sealed by the election judges.

(c) *Total persons voting*- The total number of persons voting shall be announced as shown by the registers and absentee ballots, as well as an identification of the number of provisional ballots issued.

(d) *Counting Ballots*-

(1) For paper ballots using a ballot box, upon opening the box, the full number of all ballots shall be counted. The separate votes are then counted and the ballots strung. The election judges shall reject any ballots which are intentionally folded together and any ballots which do not have endorsed thereon the name or initial of the judge who held the ballots. If there shall be any mark on the ballot other than a cross mark (x) in a square or designated place for the mark designating a vote, such ballot shall not be counted. No ballot shall be rejected solely because the voter has marked more names than there are persons to be elected to an office for a particular contest, or both for and against a proposition, but such ballots shall not be counted for any candidate in the group of names so marked, or for the proposition so marked.

(2) For voting machines, the election judge appointed as the ballot box judge shall, in the presence of all other election judges assigned to that polling place, operate the voting machine to tabulate the results, in accordance with the applicable operational procedures for that voting machine. Any ballot using a voting machine, in which there is no clear vote because of the machine's failure to properly operate or through tampering, shall be rejected.

(e) *Rejection of Ballots*- All ballots that are rejected shall be preserved. All records, including envelopes, related to rejected ballots shall also be preserved.

**§ 16-618 Statement of the Vote.**

As soon as the vote has been counted, an unofficial report of the vote shall be made and a statement thereof may be posted on the door of Town Hall.

## **§ 16-619 Publication of Returns.**

The Board shall publish and make available to the public copies of the complete election returns after the Board has certified the final results in accordance with the Town Charter.

## **Article VII-Recounts and Election Contests**

### **§ 16-701 Recounts.**

(a) *Mandatory Recount.* At the time the Board of Elections certifies the election results as required by C-612 of the Town Charter, the Board of Elections shall determine whether a mandatory recount is necessary, and if so, advise the Mayor and Town Council of that fact within 24 hours. For the election of the Mayor, a mandatory recount is necessary if the results of the election are such that the difference between the votes received by the winning candidate and the votes of the candidate receiving the next highest number of votes is equal to or less than 1% of the total votes cast for Mayor. For the election of the Town Council, a mandatory recount is necessary if the results of the election are such that the difference between the votes received by the candidate with the sixth highest number of votes and the votes of the candidate receiving the seventh highest number of votes is equal to or less than 1% of the total votes cast for Town Council. The necessity of a mandatory recount for Mayor and Town Council are independent requirements and the recount shall only apply to the election results for the office which are within the margins set forth in this subsection (a). A mandatory recount shall be performed in the manner set forth in §16-704.

(b) *Permissive Recount.* The Board of Elections shall conduct a recount in the manner set forth in §16-704 upon the filing of a written request of a candidate or a citizen of the Town who was registered to vote in the election which is the subject of the recount request. The written request for a recount must be made by a petition for recount meeting the requirements of §16-702. The petition for recount must be filed with the Town Clerk no later than the close of business on the first Monday following the election and must specify which election contest is the subject of the recount (Mayor or Town Council). A recount fee deposit of \$2,500.00 must be paid at the time the petition for recount is filed and is necessary for a valid filing of a petition for recount. A different petition for recount and deposit is necessary for each election contest for which the person is requesting a recount. The recount fee deposit shall be held by the Town Clerk, pending the results of the recount. If the recount does not change the results of the election contest, then the entire fee shall be paid to the Town from the deposit, to defer the costs of conducting the recount. If as a result of a recount, the results of the election contest are changed such that a different candidate is declared the winner, the recount fee deposit shall be refunded to the petitioner. Except for counter-petitions, the first valid petition for a recount of a specific election contest shall be the only petition upon which a recount for that contest shall be conducted.

### **§ 16-702 Required Contents of a Petition for Recount.**

A person who wishes to request a recount is known as a petitioner. A petition for recount must be in writing, include the petitioner's name, address, telephone number, identify the contest for which the person requests a recount, and be signed by the petitioner. Only one person can act as the petitioner for each petition.

### **§ 16-703 Candidate's Counter-petition for a Second Recount.**

Upon the completion of a recount undertaken pursuant to §16-710(a) or (b) and the announcement of the result by the Board, any candidate who was a candidate in the election contest which was recounted may request a second recount using a petition for recount in the form set forth in §16-702. A petition for a second recount under this section must be filed with the Town Clerk no later than the close of business on the second day after the day the results of the first recount were announced by the Board. A petition for a second recount under this section does not require a recount fee deposit or the payment of expenses. A second recount under this section shall be performed as set forth in §16-704.

### **§ 16-704 Recount Procedure.**

(a) Upon a determination that a mandatory recount is necessary, or upon the receipt of a timely and valid recount petition or a counter-petition for a recount, the Board of Elections shall announce to all interested persons, including the candidates, the current Mayor and Town Council, and the Town Clerk, of its receipt and acceptance of a petition for recount, the name of the person requesting the recount, the Board's intention to conduct a recount of the vote, and specifying the election contest that is the subject of the recount.

(b) The Board shall send or deliver written notice to all candidates for the election contest which is subject of the recount, as well as to the Mayor, the Town Council, and if applicable, the person requesting the recount. That notice shall specify the date, time, and location that the Board will conduct the recount, and shall notify each of their right to have a designated challenger present during the recount process.

(c) A challenger appointed by a candidate, the Mayor, the Town Council, and if applicable the person requesting the recount, shall have the same rights and responsibilities as an official challenger authorized under §16-610.

(d) On the date and time set for the recount, the Board of Elections shall meet and act as the sole election judges for purposes of conducting the recount. A majority of the Board of Elections must be present to conduct a recount. The recount shall utilize the same processes for canvassing as a regular canvassing after the close of the polls. A recount does not require an audit of the operation of voting machines, including the tabulations made by such voting machines. The Board may, however, require an audit of the operation of one or more voting machines or voting processes if it finds that

such an audit is necessary to protect the fairness of the election contest or the accuracy of the election result.

### **§ 16-705 Certification of Recount Result.**

Upon the completion of any recount, the Board of Elections shall re-certify the results of the election contest to the Mayor and Town Council and shall announce the result to all interested parties. Said certification shall be made within forty-eight hours after the conclusion of the recount.

## **Article VIII- Enforcement and Penalties**

### **§ 16-801 General Provisions with Respect to Enforcement and Penalties.**

(a) The Board of Elections shall be responsible for enforcing the requirements of this Chapter. The Chairman of the Board of Elections shall act as the official designated to execute all documents and take all acts necessary for enforcement actions. The Board may request that the Mayor retain counsel to assist the Chairman with any and all enforcement actions. The Board of Elections may cite offenders with municipal infractions as set forth in this Article. In addition, the Board of Elections shall have the right to bring any actions seeking any other form of equitable or legal relief necessary to enforce the provisions of this Chapter.

(b) Some of the offenses described in this Article may also constitute offenses under Maryland State law. Because some of the election processes for Town elections involve the Calvert County Board of Elections and its designees, some of the offenses of Maryland law may be relevant to Town elections. Nothing in this Article is intended to displace, limit, or effect the application of Maryland statutes regulating State elections, even to the extent State processes are used to process registration for voting in the Town's municipal elections. The fact that a person's conduct may constitute an offense under Maryland statutes is not intended to limit the effect of the provisions of this Article, or limit the Town's powers of to enforce its ordinances.

### **§ 16-802 Offenses Relating to Registration.**

(a) *Generally*-A person may not willfully and knowingly:

- (1) impersonate a voter or other person in order to register or attempt to register in the name of the voter or other person;
- (2) register to vote more than once;
- (3) falsify residence in an attempt to register;
- (4) secure registration through any unlawful means;
- (5) cause by unlawful means the name of a qualified voter to be stricken from a registry of

voters;

(6) prevent, hinder, or delay a person having a lawful right to register from registering, through the use of force, threat, menace, intimidation, bribery, reward or offer of reward;

(7) falsify any name on a registration application;

(8) misrepresent any fact relating to registration; or

(9) induce or attempt to induce a person to violate any prohibition in items (1) through (8) of this subsection.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$1,000.

### **§ 16-803 Offenses Relating to Voting.**

(a) *Generally*-A person may not willfully and knowingly:

(1) impersonate another person in order to vote or attempt to vote; or vote or attempt to vote under a false name;

(2) vote more than once for a candidate for the same office or for the same ballot question;

(3) influence or attempt to influence a voter's voting decision through the use of force, threat, menace, intimidation, bribery, reward or offer of reward; or

(4) induce or attempt to induce a person to violate any prohibition in items (1) through (8) of this subsection.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$1,000.

### **§ 16-804 Voting by Person Convicted of an Infamous Crime.**

(a) *Generally*-A person who has been convicted of an infamous crime, and has been rendered ineligible to register to vote pursuant to §16-303 of this Chapter, may not vote or attempt to vote during the time that the person is rendered ineligible to vote.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$1,000.

**§ 16-805 Disobeying Lawful Command of Election Official.**

(a) *Generally*-A person may not willfully disobey the lawful command of the Board of Elections, a registrar, or an election judge.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$500.

**§ 16-806 Disturbing the Peace.**

(a) *Generally*- A person may not hinder or impede the conduct of official electoral activities by a breach of the peace, disorder, violence, or threat of violence.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$500.

**§ 16-807 Interfering with Election Officials.**

(a) *Generally*- (1) A person may not interfere with an election official in the performance of the official duties of the election official.

(2) A person may not intentionally interfere with an individual lawfully present at a polling place or at the canvass of votes.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$500.

**§ 16-808 Offenses as to Ballots and Balloting in General.**

(a) *Generally*- A person may not:

(1) place any distinguishing mark on the person's own or another person's ballot for the purpose of identifying the ballot;

(2) misrepresent the person's ability to mark a ballot, be in a specific place within the polling place, or operate voting equipment;

(3) interfere or attempt to interfere with a voter while the voter is inside the polling room, marking a ballot, or operating voting equipment;

(4) except for servicing by an authorized person, unlock any locked compartment of a voting device, voting machine unless instructed to do so by an election judge;

(5) destroy or deface an official ballot;

(6) remove an official ballot from a building in which voting occurs, unless authorized by law to do so;

(7) delay the delivery of a ballot;

(8) possess on or before the day of election an official ballot printed for the election, unless the possession of the ballot is necessary and appropriate for carrying out the election process; or

(9) electioneer, campaign, or distribute campaign material in the polling place or beyond the line established by law delineating the area in which such electioneering, campaigning, or distribution of materials is prohibited.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$500.

#### **§ 16-809 Tampering with Election Records.**

(a) *Generally*- A person may not fraudulently tamper with election records of any kind, whether on paper or in any other medium.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$1,000.

#### **§ 16-810 Tampering, Damaging, or Removing Voting Equipment.**

(a) *Generally*- A person may not willfully and knowingly:

(1) tamper with, damage, or attempt to tamper or damage any voting equipment that is used or will be used in an election, including but not limited to voting machines;

(2) prevent or attempt to prevent the correct operation of any voting equipment that is used or will be used in an election, including but not limited to voting machines; or

(3) remove or attempt to remove any voting equipment, including but not limited to voting machines, from the custody of the election judges or other election officials.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$1,000.

#### **§ 16-811 General Penalty Provisions.**

(a) *Generally*- A person who acts contrary to the provisions of this Chapter and for which an offense is not specifically enumerated by this Article, shall violate the Town's election laws and such offense

shall be considered a municipal infraction.

(b) *Penalties*-A person who violates this section is guilty of a municipal infraction and upon conviction thereof, subject to a fine of \$100.

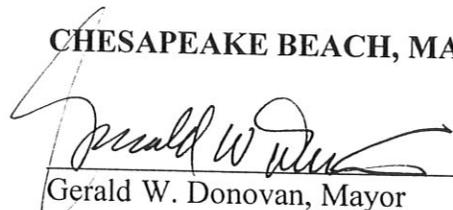
### Article IX- Appendix

#### § 16-901 Town Hall-Designation of Areas where Electioneering is Prohibited.

(See Exhibit A)

**AS CERTIFIED** by their signatures below, the members of the Town Council affirm that this Ordinance was introduced at the Town Council meeting held on the 17<sup>th</sup> day of May, 2007 and that a vote was taken in accordance with Section C-309 of the Town Charter. The vote of the Council was tallied and 5 votes of approval and 0 votes of disapproval were cast. The resulting majority of the Council, approved (*approved/disapproved*) the passage of this Ordinance this 14 day of June, 2007. If signed by the Mayor below, the Mayor approves this Ordinance pursuant to Section C-310 of the Charter this 14 day of June, 2007. This Ordinance shall become effective according to its terms, at the expiration of twenty (20) calendar days from the date of the Mayor's approval or seven (7) days after the last required publication, whichever is later, pursuant to Section C-309 of the Charter, currently published in Volume II of the Municipal Charters of Maryland.

#### CHESAPEAKE BEACH, MARYLAND

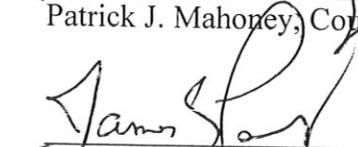
  
\_\_\_\_\_  
Gerald W. Donovan, Mayor

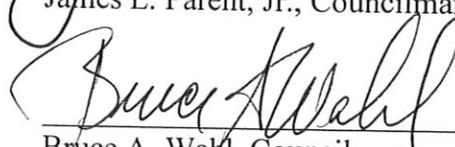
  
\_\_\_\_\_  
Valerie L. Beaudin, Councilwoman

  
\_\_\_\_\_  
Stewart B. Cumbo, Councilman

absent  
\_\_\_\_\_  
Barbara Jo Finch, Councilwoman

  
Patrick J. Mahoney, Councilman

  
James L. Parent, Jr., Councilman

  
Bruce A. Wahl, Councilman

# Exhibit A

