

Ordinance No. 14-15

Ordinance: To generally amend Chapter 8 of the Rockville City Code entitled "Elections" by adding new definitions including, inter alia, definitions of "Early voting period" and "Provisional ballot;" by providing for early voting and provisional ballots in City elections; by modifying the election cycle; by changing the due date for filing the first election report required to be filed after the election; by changing from three to five years the retention time for various documents required to be filed by candidates; and to make other technical amendments

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Chapter 8 of the Rockville City Code entitled "Elections" be amended as follows:

Chapter 8 - ELECTIONS

ARTICLE I. - IN GENERAL

Sec. 8-1. - Definitions.

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

Absentee ballot means a paper ballot issued in accordance with Section 8-42(a).

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Early voting period means the period of time as set forth in Section 8-47(a).

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General Election Day means the next Tuesday after the first Monday in the month of November in every fourth year beginning in the year 2015.

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Provisional Ballot means a paper ballot issued in accordance with Section 8-42(b).

Recall Election Day means the day on which a recall election is held as set forth in Article III, Section 6 of the City Charter and Section 8-22 of the Rockville City Code.

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Special Election Day means the day on which a special election is held pursuant to Article III, Section 5 of the City Charter.

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Sec. 8-5. - Election judges.

- (a) *Number, examination.* The Board shall appoint judges of election in numbers sufficient to provide at least three (3) judges to serve at each polling place. The Board may require the attendance of these persons before it for examination with respect to their qualifications.
- (b) *Qualifications.* Each judge must be a registered voter in the City and must be able to speak, read and write the English language. A person may not serve as a judge if said person is:
- (1) A candidate for any other City office;
 - (2) The treasurer or campaign manager for any candidate for any City office; or
 - (3) The treasurer or campaign chairman of a campaign committee.
- (c) *Training.* Each judge must attend at least one (1) training session before each biennial general election.
- (d) *Oath.* Each judge shall be required to take the oath prescribed by Article I, Section 6, of the Maryland Constitution before entering on the performance of the judge's official duties.
- (e) *Powers.* The election judges shall have the same powers as are given to judges of State and County elections pursuant to the Annotated Code of Maryland, [Article 33] Election Law Article. Each voter shall be offered assistance in casting his vote by an election judge.
- (f) *Compensation.* The compensation of election judges shall be fixed from time to time by the Mayor and Council.
- (g) Any decision of any election judge with respect to a person desiring to vote may be appealed to the Board while polls remain open. The Board shall be available during at least the last hour of each election day and each day of the early voting period for the purpose of hearing such appeals.

Sec. 8-6. - Voter registration.

- (a) The City shall, to the extent possible, use the County voting rolls. Registration with the County of persons eligible to vote in City elections shall be deemed registration with the City. Persons not registered with the County but eligible to vote in City elections shall be registered with the City pursuant to procedures to be adopted by the Board of Supervisors of Elections. Persons registered with the City pursuant to the foregoing sentence shall be removed from the City voting roll upon any subsequent registration with Montgomery County; upon losing eligibility to vote in City elections; or, as of the 1st day of January of the next calendar year,

upon failing to vote in any City election in the preceding five year period. City voter rolls shall be closed thirty (30) days before a City election.

(b) Any person eligible to register to vote in any City election may register and vote on an early voting day or on [the date of the election involved] general election day at City Hall. [Election day] Such registration must be done in person [by the registrant] at City Hall.

(c) Any person who registers to vote [on the date of any City election] in accordance with subsection (b) shall establish such person's identity, place of residence and qualifications at the time of such registration by:

- (1) Completing a County or City voter registration form;
- (2) Submitting either:
 - a. A form or forms of identification which have been approved by the Board of Supervisors of Elections establishing the identity and place of residence of such person; or
 - b. An affidavit in a form which has been approved by the Board of Supervisors of Elections attesting to the identity and place of residence of the person desiring to register to vote which is executed by a person who:
 1. Is registered to vote;
 2. Registered to vote on a previous date;
 3. Is present with such individual; and
 4. Has personal knowledge of the actual residence of the individual seeking to register to vote.

Such affidavit shall be executed under the penalties of perjury.

(d) The effective period, for City elections, of any early voting day or general election day registration shall be the same as for registration made by any other method or procedure.

(e) The ballots of those registering on any early voting day or general election day shall be processed as a provisional ballot in accordance with Section 8-42(b) [kept separate from those previously registered and voting, until such time, not to exceed seven (7) days, as the registration of each such person voting on election day at such polling place has been checked and it is determined to the satisfaction of the Board of Supervisors of Elections that all such votes have been cast properly by qualified registrants or the votes not properly cast have been identified and separated].

Sec. 8-7. - Preservation of ballots.

All ballots or official voting tallies of any City election shall be preserved for at least six (6) months from the date of the election. Absentee and provisional ballot applications, certifications, ballot envelopes, and ballots, shall be kept separate from ballots cast in the regular voting places and retained for six (6) months after the election.

Sec. 8-23. - Advisory referenda.

By passage of a resolution at least forty-five (45) calendar days preceding any general election, the Mayor and Council may direct that an advisory referendum of City voters may be undertaken on the questions set forth in such resolution. Upon petition signed by persons qualified to vote in City elections equal in number to at least thirty (30) percent of the average number of ballots cast in the last three City elections, rounded up to the nearest multiple of 50, submitted to the City Clerk at least forty-five (45) calendar days preceding any [biennial] general election, an advisory referendum shall be undertaken on the questions set forth in the petition. The results of such referendum shall be advisory only, and shall not be binding upon the Mayor and Council. Upon the passage of any such resolution or verification of a petition, it shall be the duty of the Board to place such questions on all City ballots or in a suitable place on all City voting machines, and to certify the results of the voting on such question(s) to the City Clerk by the close of business on the Monday following the election, who shall record the results in the minutes of the Council. The Board shall verify the status of the signatures of any referendum petition as City voters and the fact that the petition was not substantively altered after it was signed, prior to placing the question(s) on the ballots or machines.

Sec. 8-41. - Election procedures generally.

(a) It shall be the duty of the Council to provide for each special and general election a suitable place for voting and suitable ballot boxes and ballots or voting machines, as [provided in Sections 14-1 and 16-1 to 16-17 of Article 33] required by the Election Law Article of the Annotated Code of Maryland, as amended, except that the ballots or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of the Charter, arranged in alphabetical order by office with no party or principal designation of any kind.

(b) The Board of Supervisors of Elections shall keep the polls open from 7:00 a.m. to 8:00 p.m. on election days and shall keep the polls open from 10:00 a.m. to 8:00 p.m. on early voting days.

(c) In determining the vote cast for each candidate or question the Board of Supervisors of Elections shall verify the accuracy of the counts by such procedures as it deems appropriate. Notwithstanding the above, however, in the event that the Board of Supervisors of Elections initially announces that a candidate for Mayor or a candidate for Councilmember has lost an election by a margin of one-half ($\frac{1}{2}$) percent or less, the Board of Supervisors of Elections must conduct a manual recount of two (2) election districts chosen at random, if requested by any candidate so affected within forty-eight (48) hours of the initial announcement of the election results.

(d) The Board of Supervisors of Elections shall announce the unofficial results of the election as soon as possible after tabulating the results. The tentative results shall be posted at City Hall and shall be announced on the City cable television channel.

(e) All challenges to the results of an election shall be submitted to the Board of Supervisors of Elections within forty-eight (48) hours of the initial announcement of the results.

(f) Within seven (7) calendar days after the election, the Board shall resolve all challenges and shall certify the results of the election to the City Clerk, who shall record the results in the minutes of the Council. The results shall be posted at City Hall and shall be announced on the City cable television channel.

(g) Any person aggrieved by reason of such determination of the Board may appeal to the Circuit Court for the County, according to the Maryland Rules governing administrative appeals.

(h) The candidate for Mayor with the highest number of votes in the general election shall be declared elected as Mayor. The four (4) candidates for Council with highest number of votes in the general election shall be declared elected as members of the Council. In case of a tie in the highest number of votes for Mayor, or in case of a tie in the votes for Council members wherein no candidate received the fourth highest number of votes, then, in either of such events, there shall be a runoff election between the candidates receiving the tie vote, to be held after thirty (30) days' notice, pursuant to applicable provisions of the City Charter and this chapter.

Sec. 8-42. - Absentee and provisional voting.

(a) Absentee voting

(1) Any qualified voter who may be unavoidably absent from the City or who is otherwise prevented from being present and personally voting at the polls on any [municipal] election day may vote as an absentee voter upon the provisions contained in this section.

[(b)] (2) This section applies to elections for all candidates, Charter amendments and other questions at any election held in any year.

[(c)] (3) Printed application forms for absentee ballots shall be provided by the Board.

[(d)] (4) An application for an absentee ballot shall be available for mailing or distribution on the first day of May in any year prior to the election to which they apply, and may be rejected only by a majority vote of the Board.

[(e)] (5) Absentee ballots shall be available for mailing or distribution thirty (30) days prior to the election to which they apply. Applications for absentee ballots shall be accepted by the Board up to and including the time of closing of the polls on election day. The City will not mail absentee ballots less than seven (7) days before an election.

Absentee ballots may be obtained by an authorized agent for a voter who is unable to pick up the ballot.

[(f)] (6) Postage for transmitting the ballot material to the voter shall be paid by the Board, and postage for the return of ballots shall be paid by the voter.

[(g)] (7) Any absentee ballot voted for a person who has ceased to be a candidate shall not be counted for that candidate but such vote shall not invalidate the remainder of the ballot.

[(h)] (8) When the Board has sufficient proof that an absentee voter has died before election day, that ballot shall not be counted unless such proof is received after counting is completed.

[(i)] (9) An absentee ballot shall be counted only if it is received by the City Clerk prior to the closing of the election polls.

(b) Provisional voting

(1) A voter shall be issued a provisional ballot if:

(i) it is determined that the voter is not eligible to vote on the voting equipment; or

(ii) the voter registers to vote on the same day as casting a vote in accordance with Section 8-6(b); or

(iii) the individual votes during a period covered by a court order or other order extending the time for closing the polls. A provisional ballot cast under this subsection shall be separated and held apart from other provisional ballots cast by those not affected by the order.

(2) The provisional ballots shall be handled in accordance with procedures established by the Board of Supervisors of Elections.

Sec. 8-43. - Challengers or watchers.

Challengers or watchers may be selected by individual candidates who have been duly nominated as such, or by the presiding officer of the chief managing committee of any voluntarily associated group of candidates. Such challengers or watchers shall have the rights and be subject to the same limitations as set forth in [Article 33 Section 15-3] the Election Law Article of the Annotated Code of Maryland.

Sec. 8-45. - Electioneering.

No person shall [canvass,] electioneer or post any campaign material in any polling place or within a 50-foot radius from the entrance and exit of the building where ballots are cast. The Board of Supervisors of Elections may modify the 50-foot requirement to accommodate unusual sites and/or weather conditions, provided that no [canvassing,] electioneering or posting shall be allowed within the building where ballots are cast, and voter ingress and egress to the polling place will not be impeded. Polling places and voting stations shall be frequently cleaned to ensure the removal of candidate paraphernalia.

Sec. 8-47 Early voting.

(a) Any qualified voter of the City of Rockville may vote on the Saturday or Sunday in the fourth full weekend in October immediately preceding the November election. The polls shall be open at City Hall from 10:00 a.m. to 8:00 p.m. on both days.

(b) Same day voter registration shall apply to the early voting period in accordance with Section 8-6.

(c) No votes cast during the early voting period shall be counted until the polls are closed on general election day at which time they shall be counted as described in Sec. 8-41.

Sec. 8-76. - Books, records and receipts of treasurer.

(d) Disposition of surplus funds. Prior to the time of filing the final report required by sections 8-73 and 8-81(a)(5), any surplus funds remaining after payment of all campaign expenditures shall be:

- (1) Returned, pro rata, to the contributors by the treasurer;
- (2) Paid to the City;
- (3) Paid to a charitable organization registered pursuant to Anno. Code of Md., Art. 41, § 103B, as amended, or to a charitable organization exempt from such registration pursuant to Anno. Code of Md., Art. 41, § 103, as amended; or
- (4) In the case of continuing campaign committees, surplus funds may be carried forward to be used in the next election cycle provided such funds are reported as carry-forward receipts during the next election cycle.

Sec. 8-78. - Contributions and expenses of persons not candidates.

(f) *Election cycle.* An election cycle shall begin on the [ninetieth day following the date of the previous general election] first day of January in the year following a general election and end on December 31st of the year of a [the eighty-ninth (89th) day after the next] general election. Special elections shall not effect the commencement and conclusion of election cycles for purposes of the chapter. In the case of special elections, the Board shall prescribe a schedule for the filing of reports, which schedule shall be reasonably consistent with the intent of section 8-81 with respect to general elections.

Sec. 8-80. - Payment for walk-around services on early voting days and election day.

(a) *Prohibited.* No candidate, or campaign committee, or any person acting on behalf of any of the foregoing may at any time, directly or indirectly, pay or incur any obligation to pay, nor may any person receive, directly or indirectly, any sum of money or thing of value in return for a political endorsement or for walk-around services or any other services as a poll worker or distributor of sample ballots, performed on [the day of the election] any early voting day or election day.

(b) *"Walk-around services" defined.* For the purpose of this section, walk-around services include any of the following activities when performed for money on [the day of the election] any early voting day or election day while the polls are open:

- (1) Distributing to any person any item enumerated in paragraph 8-101(7);
- (2) Communicating a voting preference or choice in any manner;
- (3) Stationing any person or object in or along the path of any voter; or
- (4) Electioneering as described in Section 8-45 of this Chapter. [or canvassing within the meaning of Article 33, Section 24-23(a)(4) of the Annotated Code of Maryland, as amended.]

(c) *Exceptions.* This section does not apply to:

- (1) Meals, beverages and refreshments served to campaign workers;
- (2) Salaries of regularly employed personnel in campaign headquarters;
- (3) Media advertising including but not limited to newspaper, radio, television, billboard, or serial advertising;
- (4) Rent and regular office expenses; or
- (5) Cost of phoning voters or transporting voters to and from polling places.

Sec. 8-81. - Election reports to be filed by candidate, treasurer and committee chairperson.

(a) A candidate and the treasurer designated by that candidate, and the chairperson and every treasurer of a campaign committee, shall file the report or statement of contributions and

expenditures as prescribed in accordance with section 8-62 with the City Clerk. All reports or statements of contributions and expenditures shall be filed in duplicate. It is the responsibility of the candidate and treasurer, jointly and severally, if it is the statement of a candidate; the chairperson and treasurer, jointly and severally if it is the statement of a campaign committee; and, in the case of a campaign committee which is a "slate" as described in section 8-72(a), the slate chairperson, treasurer and individual slate candidates, jointly and severally, if it is the statement of such "slate", to file all reports or statements in full and accurate detail. Except as provided herein, each report filed shall contain all contributions received and expenditures made through and including the seventh day immediately preceding the day by which that report is to be filed, except as otherwise provided in this section. The initial report filed in an election cycle shall contain all contributions so received and expenditures so made since the closing date of the last report in the preceding election cycle, except that to the extent that there is an outstanding deficit from the last preceding election cycle, contributions may be credited against said deficit and shown on the report required by subsection (a)(4) for the last preceding election until such contributions equal the amount of the deficit at which time further contributions will be included in the current election cycle even if there are remaining unpaid bills. Each subsequent report shall contain all contributions so received and expenditures so made since the end of the period for which the last preceding report is filed. Even if no contributions or expenditures have been made since the end of the period for which the last preceding report was filed, a statement to that effect must be filed on the forms prescribed pursuant to section 8-82 under the circumstances and at the times specified in this section. Each report will be posted on the City's website within twenty-four (24) hours of the respective filing deadline. The initial and subsequent reports shall be consecutively filed no later than the dates and times provided as follows:

- (1) By 5:00 p.m. on the fifth Thursday immediately preceding any election which report shall be complete through and including the Friday preceding such Thursday; and
- (2) By 5:00 p.m. on the second Monday immediately preceding an election which report shall be complete through and including the Sunday preceding such Monday; and
- (3) [Thirty (30) days after the election] By 5:00 p.m. on January 15 after the last day of the election cycle as defined in Section 8-78(f) of this Chapter which report shall be complete through and including the last day of the election cycle; and
- (4) If a cash balance exists or if any unpaid bills or deficits remain to be paid as of the end of the period for which the report or statement in subsection (a)(3) above or any subsequent report or statement is filed, annually on November 8th of every subsequent year until no cash balance, unpaid bill, or deficit remains; and
- (5) If a cash balance or outstanding debts or deficits were reflected on the last preceding report, but have all been eliminated by the date on which the next report is due, and the campaign committee has dissolved, or all of a candidate's accounts have been closed, then a report clearly marked as "final" shall be filed on or before such date showing all transactions since the last report.
- (6) If a candidate does not intend to receive contributions or make expenditures of three hundred dollars (\$300.00) or more, the candidate and his treasurer may jointly execute an affidavit to that effect on a form prescribed by the Board of Supervisors of Elections. If the candidate does not in fact receive contributions or make expenditures of three hundred dollars (\$300.00) or more, no further reports need be filed pursuant to this

section. The affidavit shall be filed not later than the date by which the first report is due. If at any time the cumulative contributions to or expenditures by a candidate who has filed such an affidavit equal or exceed three hundred dollars (\$300.00), the candidate and the candidate's treasurer shall thereafter file all reports required by this section.

(7) Except for reports required by paragraphs (a)(1) and (a)(2) of this section, if a report is due on a Saturday, Sunday or legal holiday, the report shall instead be filed on the next business day.

(8) Reports required by paragraphs (a)(1) and (a)(2) of this section shall be hand-delivered to the City Clerk. A receipt shall be issued for all hand-delivered reports.

(b) With respect to candidates for public office, election reports as specified below are required by all candidates for public office, whether or not the candidate's name appears on the ballot, or the candidate withdraws subsequent to filing his certificate of candidacy, or the candidate is unsuccessful in the election.

(c)(1) The chairperson and the treasurer of any campaign committee which continues in existence from year to year, shall file the report or statement of contributions and expenditures as prescribed in accordance with section 8-82 with the City Clerk at each of the times and for the respective periods specified in subsection (a) of this section.

(2)a. In any election year, on or before the dates specified in subsection (a) of this section, in lieu of the scheduled reports required to be filed under that subsection, a campaign committee which continues in existence from year to year may file an affidavit stating that since the date covered by the last report the committee has not been involved in raising or spending, and does not intend to raise or spend, money for that election.

b. Until disbanded or reactivated, a campaign committee which continues in existence from year to year that files an affidavit under this paragraph shall also file an annual report on November 8th of each subsequent year giving a statement of all contributions received and expenditures made since the end of the period for which the last preceding report is filed, as prescribed in section 8-82 with the City Clerk.

c. If, subsequent to the filing of the affidavit provided in this paragraph, a campaign committee which continues in existence from year to year receives contributions or makes expenditures in connection with the election for which it filed the affidavit, the committee shall thenceforth file all scheduled reports on the dates specified in subsection (a) of this section. If the contributions were received or expenditures made before any scheduled reporting dates, the committee is liable for all of the penalties for the late-filing of each of the required reports.

d. The form of the affidavit to be filed under this paragraph shall be as prescribed from time to time by the Board of Supervisors of Elections.

(d) In the case of a newly formed campaign committee, the campaign committee is not required to file any reports under section 8-81(a) otherwise due on or before the date of formation of such campaign committee.

(e) Each candidate, the treasurer of each candidate, and the chairman and treasurer of each committee shall be notified by the City Clerk, by first class mail and no more than twenty (20) nor less than ten (10) days prior to the applicable filing date, of each report that person is required to file. The notice shall include the filing date, the place for filing, the penalty for

failure to file a timely report, and the telephone number and business hours of the office where the report is to be filed.

(f) Except for the reports required by paragraphs (a)(1) and (2) of this section, any report shall be considered timely if it is mailed on or before the filing deadline, regardless of when it is actually received, if the United States Postal Service has provided verification of that fact by affixing a mark so indicating on either the envelope or any receipt therefor. Unless a report is mailed, the City Clerk shall provide a receipt for each report received.

(g) Notwithstanding anything contained in this chapter to the contrary, an organization, including a campaign committee, may designate an affiliated campaign committee and the designating organization shall not be required to file any of the election reports of contributions and expenditures described in this section if:

(1) The designation is made on a form prescribed by the Board and consented to by the affiliated committee on said form;

(2) The affiliated committee has a treasurer and chairman different from the designating organization's treasurer and chairman;

(3) The designating organization does not provide any financial or other reportable contributions to the affiliated committee;

(4) The designating organization otherwise takes no action to assist or attempt to assist in any manner the promotion of the success or defeat of any candidate, candidates, principle or proposition which has been, will be, or is being sought to be submitted to a vote in the current City election cycle after an organization designates an affiliated campaign committee.

(5) The affiliated committee complies with all reporting requirements of this chapter for the election cycle.

(h) The provisions of this section shall apply to all campaign committees, their chairpersons and treasurers, and treasurers for candidates for public office located outside of the geographic boundaries of the City with respect to all expenditures of funds with respect to City elections.

(i) For purposes of this section, the failure to provide all of the information required by the forms prescribed in accordance with section 8-82, to the extent applicable, is a failure to file.

(j) Within ten (10) days after the deadline for the filing of any report which is required to be filed, the City Clerk shall compile a list of every candidate or committee which failed to file the report, which list shall be available to the public.

Sec. 8-84. - Preservation of reports, statements, accounts; inspection; certified copies.

The City Clerk shall receive, file and preserve all reports, statements and accounts relating to campaign contributions and expenditures which are required to be filed by this chapter. These reports, statements, and accounts shall be kept as part of the records of the City for a period of [three (3)] five (5) years regardless if the candidate is successful, unsuccessful, or resigns, or for a longer period if ordered by a court of competent jurisdiction. These reports, statements and accounts shall be subject and open to inspection by any citizen of the City during the hours in which the Clerk's office is open. In addition, the City Clerk shall make a permanent record of all election reports required to have been filed by section 8-81 but which have not been

filed. The permanent record shall include the name of the candidate or the committee, the treasurer, an identification of the missing report, and if a final report, a notation of the amount of any outstanding balance, bills or deficits as shown on the last report filed.

Sec. 8-111. - Violation of chapter declared misdemeanor; penalty for violations.

(a) *Misdemeanors.* Any person who violates Section 8-101(1), (2), (3), (5) or (6) of this chapter is guilty of a misdemeanor, and upon conviction shall be fined not more than one thousand dollars (\$1,000.00) or be imprisoned for not more than six (6) months, or both, in the discretion of the court.

(b) *Municipal infractions.* Any person who violates any provision of this chapter other than those listed in subsection (a) above is guilty of a municipal infraction pursuant to Section 1-9 of this Code. A municipal infraction citation may be issued to such person by the Board of Supervisors of Elections or the Board's designee, and shall be prosecuted by the City Attorney.

(c) *Ineligibility from holding office.*

(1) Any person who is convicted of a misdemeanor under subsection (a) of this section shall automatically be ineligible for any elected or appointed public office in the City for a period of [four (4)] eight (8) years from and after the time of the commission of the offense.

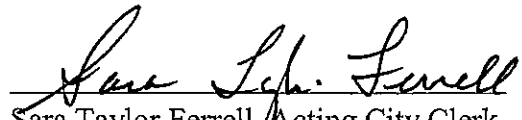
(2) If the board determines, after notice and a hearing at which evidence is taken and a transcript made, that a person found guilty of a municipal infraction under subsection (b) of this section knowingly and wilfully commits such violation or had knowledge of and consented to such violation by said person's agent, the Board may declare such person to be ineligible for any elected or appointed public office in the City for such period of time as the Board finds appropriate, but not be exceed [four (4)] eight (8) years. Any person aggrieved by reason of such determination of the Board may appeal to the Circuit Court for the County according to the Maryland Rules governing administrative appeals.

(3) If a person holding public office in the City becomes ineligible for such position under this subsection (c), such person shall automatically be removed from office and the position shall be deemed vacant. Such vacancy shall be filled in the same manner as other vacancies in such office are filled.

(d) If a different penalty is specifically prescribed for violation of any section in this chapter and expressly set forth therein, the specific penalty applies and the penalty set forth in this section does not apply.

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I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and council at its meeting of July 13, 2015.


Sara Taylor Ferrell, Acting City Clerk

